

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

HEARINGS

BEFORE A

**SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES****EIGHTY-FIRST CONGRESS****FIRST SESSION**

ON

H. R. 4453**AND COMPANION BILLS****TO PROHIBIT DISCRIMINATION IN EMPLOYMENT
BECAUSE OF RACE, COLOR, RELIGION,
OR NATIONAL ORIGIN**

HEARINGS HELD AT WASHINGTON, D. C.**MAY 10, 11, 12, 17, 18, 19, 20, 24, 25, AND 26, 1949**

Printed for the use of the Committee on Education and Labor

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FEDERAL FAIR EMPLOYMENT PRACTICE ACT

TUESDAY, MAY 10, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to call, at 10 a. m., Hon. Adam C. Powell, Jr. (chairman), presiding.

Mr. POWELL. The committee will come to order.

We have before us for consideration H. R. 4453, a bill to prohibit discrimination in employment because of race, color, religion, or national origin. This bill is also known as the administration bill, a bill which was introduced in the Senate by Senator McGrath and in the House by the chairman.

(The bill referred to is as follows:)

[H. R. 4453, 81st Cong., 1st sess.]

A BILL To prohibit discrimination in employment because of race, color, religion, or national origin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Fair Employment Practice Act."

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that, despite the continuing progress of our Nation with respect to protection of the rights of individuals, the rights of some persons within the jurisdiction of the United States to employment without discrimination because of race, color, religion, or national origin are being denied, and that such infringements upon the American principle of freedom and equality of opportunity are destructive of the basic doctrine of the integrity and dignity of the individual upon which this Nation was founded and which distinguishes it from the totalitarian nations, force large segments of our population into substandard conditions of living, foment industrial strife and domestic unrest, deprive the United States of the fullest utilization of its capacities for production, and thereby adversely affect the interstate and foreign commerce of the United States. The Congress recognizes that it is essential to the general welfare that this gap between principle and practice be closed; and that adequate protection of such rights of individuals must be provided to preserve our American heritage and prevent serious damage to our moral, social, economic, and political life, and to our international relations.

(b) The Congress, therefore, declares that the right to employment without discrimination because of race, color, religion, or national origin is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.

(c) The Congress further declares that the succeeding provisions of this Act are necessary for the following purposes:

(I) To remove obstructions to the free flow of commerce among the States and with foreign nations.

(II) To insure the more complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States.

(III) To promote universal respect for, and observance of human rights and fundamental freedoms for all, without distinction as to race or religion, in accordance with the undertaking of the United States under the United Nations Charter, and to further the national policy in that regard by securing to all persons under the jurisdiction of the United States effective recognition of certain of the rights and freedoms proclaimed by the General Assembly of the United Nations in the Universal Declaration of Human Rights.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof.

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States, including the District of Columbia, or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, not organized for private profit, other than a labor organization.

(c) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, wages, hours, terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(d) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, possession, or the District of Columbia and any place outside thereof; or within the District of Columbia or any Territory or possession; or between points in the same State but through any point outside thereof.

(e) The term "Territory" means Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

(f) The term "possession" means all possessions of the United States, and includes the trust territories which the United States holds as administering authority under the United Nations trusteeship system, and the Canal Zone, but excludes other places held by the United States by lease under international arrangements or by military occupation.

(g) The term "Commission" means the Fair Employment Practice Commission, created by section 6 hereof.

EXEMPTION

SEC. 4. This Act shall not apply to any employer with respect to the employment of aliens outside the continental United States, its Territories and possessions.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

SEC. 5. (a) It shall be an unlawful employment practice for an employer—

(1) to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, color, religion, or national origin; and

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, color, religion, or national origin.

(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its mem-

bership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such individual's race, color, religion, or national origin.

(c) It shall be an unlawful employment practice for any employer or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this Act.

THE FAIR EMPLOYMENT PRACTICE COMMISSION

Sec. 6. (a) There is hereby created in the executive branch of the Government a commission to be known as the Fair Employment Practice Commission, which shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall make an annual report to the Fair Employment Practice Commission, which shall be its activities during the preceding fiscal year, including the number and types of cases it has handled and the decisions it has rendered; and shall report to the President from time to time on the causes of and means of eliminating discrimination and make such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of \$17,500 a year, except that the Chairman shall receive a salary of \$20,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent, other than a member of the Commission, designated to conduct a proceeding or a hearing shall be a resident of the judicial circuit, as defined in title 28, United States Code, section 41, within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint, in accordance with the Civil Service Act, rules, and regulations, such officers, agents, and employees, as it deems necessary to assist it in the performance of its functions, and to fix their compensation in accordance with the Classification Act of 1923, as amended;

(2) to cooperate with regional, State, local, and other agencies;

(3) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(4) to furnish to persons subject to this Act such technical assistance as they may request to further their compliance with this Act or any order issued thereunder;

(5) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this Act, to assist in such effectuation by conciliation or other remedial action;

(6) to make such technical studies as are appropriate to effectuate the purposes and policies of this Act and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(7) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this Act, and the Commission may authorize them to study the problem or specific instances of discrimination in employment because of race, color, religion, or national origin, and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizens residents of the area for which they are appointed, who shall serve without compensation, but shall receive transportation and per diem in lieu of subsistence as authorized by section 5 of the Act of August 2, 1946 (5 U. S. C. 73b-2), for persons serving without compensation; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 7. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 6. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise; *Provided*, That the Commission is empowered by agreement with any agency of any State, Territory, possession, or local government, to cede to such agency jurisdiction over any cases even though such cases may involve charges of unlawful employment practices within the scope of this Act, unless the provision of the statute or ordinance applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act or has received a construction inconsistent therewith.

(b) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the Act has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be used as evidence in any subsequent proceeding. Any written charge filed pursuant to this section must be filed within one year after the commission of the alleged unlawful employment practice.

(c) If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this Act, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

(d) The respondent shall have the right to file a verified answer to such written charge and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(e) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any written charge, and the respondent shall have like power to amend its answer.

(f) All testimony shall be taken under oath.

(g) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof, except as a witness.

(h) At the conclusion of a hearing before a member or designated agent of the Commission, such member or agent shall transfer the entire record thereof to the Commission, together with his recommended decision. The Commission, or a panel of three qualified members designated by it to sit and act as the Commission in such case, shall afford the parties an opportunity to be heard on such record at a time and place to be specified upon reasonable notice. In its discretion, the Commission upon notice may take further testimony.

(i) With the approval of the member or designated agent conducting the hearing, a case may be ended at any time prior to the transfer of the record thereof to the Commission by agreement between the parties for the elimination of the alleged unlawful employment practice on mutually satisfactory terms.

(j) If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the Act: *Provided, however*, That interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. If upon the record, including all the testimony taken, the Commission shall find that no person named in the written charge has engaged or is engaging in any unlawful employment practice, the Commission shall state its findings of fact and shall issue an order dismissing the said complaint.

(k) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the case may at any time be ended by agreement between the parties, approved by the Commission, for the elimination of the alleged unlawful employment practice on mutually satisfactory terms, and the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(l) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act.

JUDICIAL REVIEW

Sec. 8. (a) The Commission shall have power to petition any United States Court of Appeals or, if the court of appeals to which application might be made is in vacation, any district court or other United States court of the territory or place within the judicial circuit wherein the unlawful employment practice in question occurred, or wherein the respondent transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by Section 10 of the Administrative Procedure Act.

(b) Upon such filing the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceedings and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its member, or agent and to be made a part of the transcript.

(e) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals, if application was made to the district court or other United States court as hereinabove provided, and by the Supreme Court of the United States as provided in title 28, United States Code, section 1254.

(g) Any person aggrieved by a final order of the Commission may obtain a review of such order in any United States court of appeals of the judicial circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court

a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petitioner or the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(h) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10 of the Administrative Procedure Act.

(i) The commencement of proceedings under subsection (a) or (g) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

INVESTIGATORY POWERS

SEC. 9. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this Act, the Commission, or any member thereof, shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(c) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States, including the District of Columbia, or any Territory or possession thereof, at any designated place of hearing.

(d) In case of contumacy or refusal to obey a subpoena issued to any person under this Act, any district court of the United States as constituted by chapter 5, title 28, United States Code (28 U. S. C. 81 et. seq.), or the United States Court of any Territory or other place subject to the jurisdiction of the United States, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(e) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpoena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES AND CONTRACTORS

SEC. 10. (a) The President is authorized to take such action as may be necessary (1) to conform fair employment practices within the Federal establishment with the policies of this Act, and (2) to provide that any Federal employee aggrieved by any employment practice of his employer must exhaust the administrative remedies prescribed by Executive order or regulations governing fair employment practices within the Federal establishment prior to seeking relief under the provisions of this Act. The provision of section 8 shall not apply with respect to an order of the Commission under section 7 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or of the District of Columbia, or any officer or employee thereof. The Com-

mision may request the President to take such action as he deems appropriate to obtain compliance with such orders.

(b) The President shall have power to provide for the establishment of regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, or of the District of Columbia, in any amount exceeding \$10,000. Such regulations shall be enforced by the Commission according to the procedure heretofore provided.

NOTICES TO BE POSTED

Sec. 11. (a) Every employer and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Commission setting forth excerpts of the Act and such other relevant information which the Commission deems appropriate to effectuate the purposes of the Act.

(b) A willful violation of this section shall be punishable by a fine of not more than \$500 for each separate offense.

VETERANS' PREFERENCE

Sec. 12. Nothing contained in this Act shall be construed to repeal or modify any Federal, State, Territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

Sec. 13. The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this Act. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

Sec. 14. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this Act, or because of such performance, shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or by both.

SEPARABILITY CLAUSE

Sec. 15. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Mr. POWELL. Before we begin, the members of this subcommittee would perhaps like to make some opening remarks.

Mr. PERKINS. Mr. Chairman, the only thing that I have to say at this time is that we want to get along with these hearings the best we can and make our report as soon as we can.

Mr. POWELL. Mr. Burke?

Mr. BURKE. Mr. Chairman, I want to say that I approach the hearings with an open mind, and I am very much interested in the testimony that may be developed. I would like to know, as a matter of procedure, whether we shall operate under the same rules that the Committee on Education and Labor has operated under—that is, the 10-minute limit on questions, and so on.

Mr. POWELL. We will operate under the same rules as the other subcommittees of our House Committee on Education and Labor.

We have set aside today for Members of the House of Representatives to testify. There are many statements which have been handed

in from Members, and at this time I ask consent to include in the record statements in support of the bill by the Honorable John J. Rooney, the Honorable George G. Sadowski, and the Honorable T. Millet Hand. Without objection, it is so ordered.

(The statements referred to are as follows:)

STATEMENT OF HON. JOHN J. ROONEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, and members of the subcommittee, I am grateful to you for this opportunity to express my views concerning the pending legislation to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry. In testifying affirmatively, I believe that I am furthering the basic democratic principles upon which this great Nation was founded. The pending legislation is a step toward assuring that these principles and traditions become living reality for the minority members of our society. While differences may arise among us as to the best methods of achieving the goals toward which this legislation is directed, I do not believe that there can be any difference between men of good will as to the desirability of these goals.

I have always believed in the principles of freedom, equality, and equal opportunity for all Americans. Legislation such as this must be considered in the light of history—in the light of changing forces and events and changing economic conditions. We know that in the past two generations industrialism has transformed our society and our methods of producing all the essentials of modern living. No longer do we live a life of individual self-sufficiency. Changes in transportation and the growth of national markets have hastened the advance of machine technology. Our economy has been transformed by the growth of large-scale enterprise in which millions of workers earn a salary or wage with which they buy the products of our machine age. The result has been a growing interdependence of the members of society each upon the other. The frontier days are gone, and few of us familiar with the rigors of living in that era are likely to bewail its departure.

Life itself has become dependent upon the individual finding suitable employment. His happiness depends upon his ability to utilize his capacities in productive employment under favorable working conditions. To those who have been discriminated against in seeking or holding such employment because of their race, color, or religion, "life, liberty, and the pursuit of happiness," remains an empty phrase.

There are many practical reasons which point to the desirability of fair employment legislation. Our society cannot afford to waste the capacities of its members because they happen to belong to a minority group. Such discrimination is uneconomical in two ways: It may prevent the filling of a job by the best qualified employee simply because he does not belong to a "favored" group. Such instances multiplied many times over add up to a net effect of inefficient utilization of our manpower. Secondly, it is uneconomical because the individual discriminated against is thereby forced to accept employment in less skilled occupations, thereby retarding his usefulness to society. The trained typist or stenographer forced to seek employment in domestic service, the trained mechanic forced to accept work as an unskilled employee, all represent economic waste which society can ill afford. While examples of such uneconomic utilization of our human resources may be at a minimum in periods of full employment, they are nonetheless uneconomical in cases in which they do occur.

There is every indication that any sharp decline in employment falls most heavily upon these minority groups. This legislation enacted now and effectively enforced will do much to prevent and mitigate such an unfortunate result.

In the war which we so successfully concluded, soldiers of every race and creed fought side by side to make victory possible. Duty and patriotism knew no artificial barriers. There were no minority groups in terms of sacrifice. This legislation represents a constructive approach to the fulfillment of the democratic ideals for which men sacrificed so much. It places our democracy on record as striving to fulfill the ideals of equality of opportunity upon which it was founded. I urge a favorable report on the pending legislation. Let us have an opportunity to vote for it on the House floor.

STATEMENT OF HON. GEORGE G. SADOWSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, IN SUPPORT OF H. R. 4453, FOR THE ESTABLISHMENT OF A PERMANENT FEPC

More than 5 years ago I urged upon this body the establishment of a national FEPC on a permanent basis, through the enactment of the Scanlon bill, H. R. 3886, which was before us at that time. I rise today to urge the passage of a similar proposal, H. R. 4453, introduced by the distinguished Member from New York, Mr. Powell. The need for the enactment of this legislation was urgent 5 years ago; it seems to me in the light of events that have occurred since that date, its enactment is even more urgent now than it was then. Let me review briefly some of the significant developments during these recent years.

The Committee on Fair Employment Practices was set up within the Office of Production Management by Executive Order 9340, issued by President Roosevelt on June 25, 1941. The organizational history of this committee was complicated by many changes, but its purpose remained the same throughout, namely, to promote the fullest utilization of manpower in the war effort by the elimination of discriminatory employment practices which might interfere with such full utilization. This agency functioned throughout the war period until, in 1945, the Congress discontinued its appropriation. Request was made by the President that such a body be established by law on a permanent basis, but no action was taken on this proposal.

During this interval some significant developments have occurred in the States. Legislation prohibiting discrimination in particular phases of employment has been enacted with greater and greater frequency during the past 50 years. Now more than half of the States prohibit such a discrimination in the civil service, while many also prohibit it in labor organizations, public-works projects, and in other areas. It remained, however, for the State of New York to pioneer in the enactment of a statute sufficiently broad to cover all phases of discrimination in relation to employment, whether on account of race, creed, color, or national origin. This measure was enacted by the New York Legislature in 1945, and was signed by the Governor. Numerous measures of similar character have been introduced in the legislatures of other States, and several such laws have been adopted, namely, in New Jersey, Indiana, and Wisconsin in 1945, in Massachusetts in 1946, and in Connecticut in 1947. In this year, 1949, it is reported that such enactments have already been adopted in New Mexico, Oregon, and Washington.

It is thus apparent that progress in this field is being made, but it is halting and uncertain. If we continue to rely exclusively upon action by the States, one may assume that it will be at least a generation before there is anything approaching complete coverage of this type of legislation in the several States. We cannot afford to wait that long, or nearly that long. The need is immediate and it is urgent. The report of the President's Committee on Civil Rights, published last year, dealt with the problem of discrimination in employment practices and requested the enactment of a Federal Fair Employment Practices Act prohibiting, as does H. R. 4453, all forms of discrimination in private employment based upon race, color, creed, or national origin. Even though there are now, as we have noted, a number of State laws, and even though additional ones may be adopted from time to time in the future, it is necessary that there be a Federal act to reach activities carried on in the field of interstate commerce, many of which would certainly escape the application of laws in the individual States. This distinguished Commission appointed by the President indicated very clearly the extent of discriminatory practices now prevailing and the seriousness of their consequences to the economic life of the Nation and to the social well-being of a large and significant segment of our population.

During the war we adopted antidiscriminatory practices largely as a matter of necessity. Members of the Negro race and of other minority groups served in the armed forces with ability and distinction, risking their lives, and sacrificing them if need be, in the service of their country. Thousands more served here on the home front with sincere devotion to the cause for which we fought. We have an obligation now to those who served so ably not to deny them, now that the war is won, the benefits of a democratic society for which we all worked and for which many of them gave their lives.

In addition, it seems to me that we have to enact legislation of this character if we are to keep faith with ourselves and with those peoples throughout the world who look upon the United States for an example in the practice of democratic principles. We have protested long and loud our belief in these principles.

If we are sincere in our devotion to them, we can no longer refuse to give the members of our minority groups the employment security which this measure would provide and which in the absence of such legislation, the members of these groups have no real hope of obtaining. Nor do I believe that we can afford to spend billions of dollars on our foreign-aid program and an untold amount of effort on the part of a vast civilian army of Americans who now seek to remold the institutions of Germany and Japan in keeping with the democratic tradition and then fail at home to do so important a thing as to establish by law this simple step in the realization of democracy at home. We cannot expect peoples in foreign lands to take seriously our professions of belief in the democratic way of life unless we are willing to practice what we preach. I hope that this committee will take favorable action on H. R. 4453, and I sincerely believe that the Members of the House will work for, and, when the time comes, will vote for the enactment of H. R. 4453 to prohibit discrimination in employment in this country because of race, religion, color, national origin, or ancestry.

STATEMENT OF HON. T. MILLET HAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

I had not been in Congress much over a month before I fulfilled a promise made to the people of my district and spoke out definitely in favor of FEPC. On February 23, 1945, I made the following statement:

"Mr. Speaker, there is now pending in the House H. R. 2232, a bill to prohibit discrimination in employment because of race, creed, color, national origin, or ancestry. Its purpose is to put into form of permanent law that equality of opportunity to work and to achieve a decent standard of living which I had always supposed to be one of the foundations of our great Republic, and which is certainly essential to the unity, strength, and health of our future.

"You will note that I stress the word opportunity. I do not believe it is the Nation's function to guarantee the comforts and happiness of its citizens, but I do sincerely believe that our Constitution directs us to preserve for all our people the chance to work, live, and pursue happiness, free from discrimination, prejudice, or improper control from any source.

"Mr. Speaker, the very nature of Americanism is the protection of the vital rights of minorities, both with respect to their political freedom, and their rights as individuals to live self-respecting lives. Among those important minorities are 13,000,000 Americans who are Negroes. Seven hundred thousand of them now serve in the armed forces, and millions are producing in our war plants. The future of these Americans depends largely on the wisdom with which we now act.

"I, for one, will welcome that opportunity to support the bill. I hope that history may record that the Seventy-ninth Congress was responsible for this great social advance in America."

Both the Seventy-ninth and Eightieth Congresses have passed into history without action on this legislation. It is needless to recite in detail the parliamentary maneuvers which succeeded in blocking the consideration of this legislation by the House. It is up to this Congress to act.

I have been and remain convinced that minority groups in excess of 20,000,000 in our country, including not less than 13,000,000 Americans who are Negroes are entitled to protection in their job opportunities. We must put an end to practices which prevent the Congress from having at least the opportunity of passing on this important question of broad national policy.

Mr. POWELL. Tomorrow we will have as witnesses Senators Humphrey, Ives, and Langer, Representatives Douglas, Biemiller, Sabath, and Javits, and Mr. Norman Thomas.

Our first witness today will be Representative Dollinger. Will he come forward, please?

TESTIMONY OF HON. ISIDORE DOLLINGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. DOLLINGER. Mr. Chairman and members of the subcommittee, I appreciate this opportunity to appear before your committee today.

I represent the Twenty-fourth District of New York. In that district, there are many thousands who now suffer under the evil practice of discrimination in employment. However, when we consider this subject, we must realize that the results are as damaging wherever such discrimination occurs, and therefore, my concern is for the entire country, as the problem is not a local one.

The practice of discriminating in employment against properly qualified persons because of race, religion, color, national origin, or ancestry, has, in my opinion, brought shame to this Nation. This practice is rampant; the results of it are tragic. Its victims are forced into substandard conditions of living and they are deprived of their equality of opportunity as guaranteed them under our Constitution.

The United States is looked upon by all as the land of opportunity. Our entire economic system is based upon the theory that a man shall be allowed to utilize his talents and training, and then reap the rewards of his industry and individual striving. We find that, while these promises and assurances are taken for granted and enjoyed by many, there are millions in this country whose ambition, studies, qualifications, and training are of no avail. A young man may graduate at the head of his class and find that although he is a Doctor of Philosophy and wishes to teach, he is finally forced into menial employment because of the color of his skin. A young woman, qualified to be a good secretary, answers an ad in the newspaper, but is refused employment because of her religion or ancestry. There are many glaring examples of discrimination in employment, and they have come to the attention of all of us.

The effect of such discrimination is disastrous. Those who bear the brunt of it are unhappy and resentful, and rightly so. Initiative and ambition are lost, and the worker, refused his rightful chance to make good at his chosen occupation, becomes dispirited, and lacks that ambition which makes an efficient employee. In turn, production and business lose potentially valuable people, and the general welfare of the Nation is undermined.

At this time, we as a Nation, are sending our emissaries throughout the world to say that our ideology is best and that our people live under a true democratic system. Those who oppose us in our program of selling democracy to others have a potent weapon against us when they point out how undemocratic we really are in our present unemployment practices, and that this land is indeed not one of equal opportunity. Our Government, engaged in its present struggle against communism, cannot afford to allow such discrimination to continue, and must take effective steps to end it. Our obligations as a signatory of the United Nations Charter, "to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" are sacred. We should fulfill those obligations willingly and at once, and not be forced to observe them.

Under our various programs of assistance to foreign countries, heavy burdens have been placed upon our shoulders. We need all the good, efficient help we can get in order to take care of the needs of those to whom we have promised aid, as well as our own. Race, religion, color, national origin, or ancestry do not predetermine the usefulness or contributions of any human being in a given field. The talents of all must be utilized if we are to maintain our present great position as the leading Nation in the world.

In the light of this, I urge that the right to employment without discrimination because of race, religion, color, national origin, or ancestry, be recognized as and declared to be a civil right of all the people of the United States.

The bill now being considered, H. R. 4453, known as the Federal Fair Employment Practice Act is similar to H. R. 1348 which I introduced on January 3, 1949. Although nothing would please me more than to have the bill under consideration bear my name, because of my deep interest in this problem, I am extremely happy to support the Powell bill, because my primary concern is to wipe out the un-American practice of discrimination in employment.

Your chairman is to be complimented on the vigorous stand he took in introducing the bill, and on the fight he is making for its passage. I trust that you will favorably report this measure, so that the oppressed may enjoy that true freedom, which should be the blessing of all in this great country of ours.

Thank you, gentlemen, for this opportunity to testify.

Mr. POWELL. Are there any questions you would like to ask Mr. Dollinger, Mr. Perkins?

Mr. PERKINS. Nothing.

Mr. POWELL. Mr. Burke?

Mr. BURKE. Mr. Dollinger, does your State have a State Fair Employment Practices Act?

Mr. DOLLINGER. We have. I think there could be a better commission set up there. I think it has room for improvement. But I think they have started to do a job which, in my opinion, is helpful and which I think is a step in the right direction.

Mr. BURKE. But there has not been any of the disarrangement of industry that the opponents of such legislation contemplate?

Mr. DOLLINGER. Oh, no; definitely not. They have not upset anything. I do not think this bill intends to disrupt industry any more than the legislation in effect in the State of New York. I think every group intends to do the right thing, and the purpose, of course, is to educate, if they can. There are very few instances that I know of where they have gone to court. The Attorney General has usually stepped in, and there have been agreements between the parties that they would discontinue the practice.

Mr. BURKE. Thank you.

Mr. POWELL. Thank you ever so much.

Mr. DOLLINGER. Thank you, gentlemen.

Mr. POWELL. Representative Hoffman, of Michigan.

Mr. HOFFMAN. Thank you, Mr. Chairman and members of the committee.

TESTIMONY OF HON. CLARE E. HOFFMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. HOFFMAN. While believing there should be no discrimination in opportunity for employment, I cannot go along with the present bill or any bill of similar import.

I must apologize for not filing a statement, for the reason that I was not sure that I could be here this morning, and the other committee assignment that I had prevented making one.

Without expressing my opinion as to the merit or lack of merit in connection with his comments, I would like to place in the record certain comments and tables printed in the Congressional Record under date of March 13, 1945, by the Honorable John E. Rankin, of Mississippi.

Mr. POWELL. Without objection, the material will be made a part of the record.

(The comments, in part, and the tables referred to are as follows:)

COMMITTEE ON FAIR EMPLOYMENT PRACTICE, WASHINGTON, D. C.

Office of the chairman

Incumbent	Title	Race	Salary
Ross, Malcolm	Chairman	White	\$8,000
Johnson, George M.	Deputy Chairman	Colored	8,000
Hubbard, Maceo	Hearings examiner	do	5,600
Hoob, Emanuel	do	White	5,600
Couper, Evelyn	do	do	5,600
Berkling, Alas	Assistant to Chairman	do	3,600
Alexander, Dorothy	Secretary to Chairman	Colored	2,600
Clifton, J. Jeanie	Secretary to Deputy	do	2,000
Brooks, Mary	Clerk-stenographer	do	1,800
Banting, Myra	do	White	1,800

You will note that in this office of the chairman, consisting of 10 people, there are 5 Negroes, and 5 white people, most of whom have foreign names. One of the whites is a stenographer who receives the smallest salary of anyone on the list.

Remember that the members of this group preside over the destiny of every business enterprise in America, and are using their assumed powers to harass white Americans out of business.

This is the organization Members of Congress are now being asked to perpetuate by the passage of this bill.

FIELD OPERATIONS

Here is the Division of Field Operations:

Incumbent	Title	Race	Salary
Madow, Will	Chief	White	\$6,800
Mitchell, Clarence	Principal fair-practice examiner	Colored	5,600
Davidson, Eugene	do	do	5,600
Bowl, W. Hays	Senior fair-practice examiner	White	4,600
Mercer, Inez	Fair-practice examiner	do	3,800
Rogers, Eleanor	Clerk-stenographer	Colored	1,800
Balto, Orome	do	Japanese-American	1,800
Thompson, Mildred	do	Colored	1,800
Cornick, Emma	do	do	1,600

You will note it consists of nine people—five Negroes, one Japanese, and three others—two of whom have records of affiliations with Communist-front organizations, according to the reports of the Dies committee.

REVIEW AND ANALYSIS DIVISION

Now look at this list and see who reviews all these records of racial discrimination when they come to Washington, * * *

Here is the list:

Incumbent	Title	Race	Salary
Davis, John A.	Chief	Colored	\$5,600
Lawson, Marjorie	Research analyst	do	3,800
Golightly, Cornelius	Compliance analyst	do	3,200
Hemphill, India	do	do	2,800
Coan, Carol	do	White	2,600
Davis, Joy P.	do	Colored	2,600
Hoffman, Cells	Clerk-stenographer	White	1,800
Spaulding, Joan	do	Colored	1,800

You will note that it consists of six Negroes and two white people, one of whom is named Carol Coan and the other Cella Hoffman, a white stenographer receiving the lowest salary on the list.

LEGAL DIVISION

• • • look at this Legal Division.

Incumbent	Title	Race	Salary
Reeves, Frank D.	Attorney	Colored	\$4,600
Stickgold, Simon	Do.	White	1,600
Gordon, Jernell	Clerk-stenographer	Colored	1,800

You will note it consists of two Negroes and a Simon Stickgold. If you want to know who Simon Stickgold is, probably Sidney Hillman can give you the information.

INFORMATION DIVISION

Now we come to the Information Division. If you want information about this outfit you write to this Division.

Incumbent	Title	Race	Salary
Bourne, St. Clair	Information specialist	Colored	\$3,800
Whitney, Margaret	Clerk-stenographer	do.	1,600

You will note that it consists of two Negroes, one registered as an information specialist and the other as a clerk-stenographer.

BUDGET AND ADMINISTRATION

Now we come to the Budget and Administration Division. This Division not only makes up the budget but administers the regulations. Here is the list:

Incumbent	Title	Race	Salary
Jones, Theodore	Chief	Colored	\$5,600
Jeter, Sinclair	Assistant administrative officer	do.	3,200
Baker, Vivian D.	Clerk-stenographer	do.	2,000
Jackson, Bessie A.	Clerk-typist	do.	1,620
Paynter, Minnie A.	do.	do.	1,620
Hollomon, Irving	Clerk	do.	1,440
Selby, Ralph B.	Chief, fiscal	do.	2,600
Ross, Sylvia B.	Voucher auditor	do.	2,000
Nelson, Otella	Accounting clerk	do.	1,620
Carpenter, Elizabeth	do.	do.	1,620
Brent, Pearl T.	do.	do.	1,620

This outfit, which is composed of 11 Negroes, not only makes up the budget for financing this aggregation, but it seems to have the power of administration.

MAIL AND FILES DIVISION

Now, here are the ones that have control of the mails and filing system:

Incumbent	Title	Race	Salary
Douglas, Lela	Chief, Mail and Files	Colored	\$2,000
Walden, Eleana	Docket clerk	do.	1,800
Gamble, Jessie	File clerk	do.	1,620
Phillips, Rose	do.	do.	1,440
Reed, Charles	Messenger	do.	1,380
Mitchell, Regina	File clerk	do.	1,440

You will note that this division is composed entirely of Negroes—no whites at all. I wonder why they discriminated against the white race in setting up these two powerful branches of this most dangerous agency?

REGIONAL OFFICE, NEW YORK

Now let us turn to the regional offices and see who is going to harass the business people back in the States. Here is the list for the State of New York:

Incumbent	Title	Race	Salary
Lawson, Edward H.	Regional director	Colored	\$5,600
Jones, Madison S.	Fair-practice examiner	do	3,800
Jones, Robert G.	do	do	3,800
Donovan, Daniel R.	do	White	3,800
Irish, Miriam	Clerk-stenographer	Colored	2,000
Aepha, Tillie	do	White	1,620
Schwartz, Sonia	do	do	1,620

* * * You will note that it is composed of four Negroes and three white people. Please read the names of the three white people and see if you can figure out their antecedents.

REGIONAL OFFICE, PHILADELPHIA

Now, let us turn to Philadelphia, the birthplace of the Constitution, the City of Brotherly Love. * * *

Incumbent	Title	Race	Salary
Fleming, G. James	Regional director	Colored	\$5,600
Greenblatt, Mildred	Fair-practice examiner	White	3,800
Manly, Mido A.	do	Colored	3,800
Riak, Samuel R.	do	White	3,800
Grinnage, Willard	do	Colored	3,200
Gorgas, Helen	Clerk-stenographer	do	1,800
Kilger, Karyl	do	White	1,800
Brown, Grace	do	Colored	1,440

You will note that it is composed of eight individuals—five Negroes and three whites, Mildred Greenblatt, Samuel R. Riak, and Karyl Kilger.

REGIONAL OFFICE, WASHINGTON, D. C.

Now, here is the regional office in Washington, D. C., the Nation's Capital, where there has been so much persecution of white gentiles in the last few years. Here is the list:

Incumbent	Title	Race	Salary
Evans, Joseph	Regional director	Colored	\$5,600
Houston, Theophilus	Fair-practice examiner	do	3,200
Kahn, Alice	do	White	2,000
Chloam, Ruby	Clerk-stenographer	Colored	1,800
Urback, Dorothy	do	do	1,620

You will note it consists of four Negroes and Alice Kahn. * * *

REGIONAL OFFICE, CLEVELAND

Now let us move out where the West begins and take a look. Here is the list in the Cleveland regional office:

Incumbent	Title	Race	Salary
McKnight, William	Regional director	Colored	\$4,600
Abbott, Olcott R.	Fair-practice examiner	White	3,200
Gore, Letha	do	Colored	2,200
Kelley, Bernice	Clerk-stenographer	do	1,620
Wasem, Edna	do	White	1,800

You will note that it is composed of three Negroes and two whites, Olcott R. Abbott and Edna Wasem.

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

REGIONAL OFFICE, CINCINNATI

Cincinnati seems to be largely under the jurisdiction of the Cleveland office since it only has two people:

Incumbent	Title	Race	Salary
James, Harold.....	Fair-practice examiner.....	White.....	\$4,600
	Clerk-stenographer.....		1,800

REGIONAL OFFICE, DETROIT

Now let us move on to Detroit, Mich. Here is the regional office for Detroit:

Incumbent	Title	Race	Salary
Swan, Edward.....	Examiner in charge.....	Colored.....	\$4,600
See, Doris K.....	Clerk-stenographer.....	Japanese-American.....	1,620

You will note that it is composed of one Negro and one Japanese. * * *

REGIONAL OFFICE, CHICAGO

Here is the list of the regional office in the Windy City:

Incumbent	Title	Race	Salary
Henderson, Elmer.....	Regional director.....	Colored.....	\$5,600
Gibson, Harry H. O.....	Fair-practice examiner.....	do.....	3,800
Schultz, Joy.....	do.....	White.....	3,800
Williams, Le Roy.....	do.....	Colored.....	2,200
Zeldman, Penny.....	Clerk-stenographer.....	White.....	1,920
Ingram, Marquerite S.....	do.....	Colored.....	1,620

You will note it is composed of five Negroes, two whites, Joy Schultz and Penny Zeldman. * * *

REGIONAL OFFICE, ATLANTA

Here is a list of the Atlanta office:

Incumbent	Title	Race	Salary
Dodge, Witherspoon.....	Regional director.....	White.....	\$4,600
Hoge, John.....	Fair-practice examiner.....	Colored.....	3,600
McKay, George D.....	do.....	White.....	3,500
Chubb, Sally.....	Clerk-stenographer.....	do.....	2,000
Ingram, Thelma.....	do.....	Colored.....	1,600

You will note that it consists of two Negroes and three whites. * * *

REGIONAL OFFICE, KANSAS CITY

Here is the list of the Kansas City office:

Incumbent	Title	Race	Salary
Hoglund, Roy A.....	Regional director.....	White.....	\$5,600
Ornabae, Eugene.....	Fair-practice examiner.....	do.....	3,800
Jones, Mildred.....	Clerk-stenographer.....	Colored.....	1,620
Behlken, Helene G.....	do.....	White.....	1,620

You will note that this office force consists of three whites and one Negro.

* * *

REGIONAL OFFICE, ST. LOUIS

Here is the list of the regional office at St. Louis:

Incumbent	Title	Race	Salary
Theodore Brown.....	Examiner in charge.....	Colored.....	\$3,800
Morris Levine.....	Examiner.....	White.....	3,200
Armatha Jackson.....	Clerk-stenographer.....	Colored.....	1,620

You will note that it consists of two Negroes and one white. * * *

REGIONAL OFFICE, DALLAS, TEX.

The members of the regional office at Dallas are as follows:

Incumbent	Title	Race	Salary
Castenada Carlos.....	Regional director.....	White.....	\$4,600
(Vacancy).....	Fair-practice examiner.....		3,200
Gutleben, Willetta.....	Clerk-stenographer.....	White.....	1,800

You will note there is one vacancy. Last year that position was held by a Negro, namely, Roy V. Williams. The other two members, Carlos Castenada, the regional director, and Willetta Gutleben, seem to be in charge of the office at the present time. * * *

REGIONAL OFFICE, NEW ORLEANS

The regional office at New Orleans consists of the following members:

Incumbent	Title	Race	Salary
Ellinger, W. Don.....	Regional director.....	White.....	\$3,800
Morton, James H.....	Fair-practice examiner.....	Colored.....	3,200
Remling, Evelyn.....	Clerk-stenographer.....	White.....	1,800

You will note that there are two whites and one Negro in this office. * * *

REGIONAL OFFICE, SAN FRANCISCO

The San Francisco office consists of the following individuals:

Incumbent	Title	Race	Salary
Kingman, Harry L.....	Regional director.....	White.....	\$5,600
Rutledge, Edward.....	Fair-practice examiner.....	do.....	4,600
Ross, Bernard.....	do.....	do.....	3,800
Reynolds, Virginia.....	Administrative assistant.....	do.....	2,000
Mazen, Jewel.....	Clerk-stenographer.....	do.....	1,800

This is the only office we have found yet that consists entirely of white people.

* * *

REGIONAL OFFICE, LOS ANGELES

The Los Angeles regional office consists of the following:

Incumbent	Title	Race	Salary
Hunt, A. Bruce.....	Hearings examiner.....	White.....	\$5,600
Brown, Robert E.....	Fair-practice examiner.....	Colored.....	4,600
Lopez, Ignacio.....	do.....	White.....	3,800
Vetter, Vera G.....	Clerk-stenographer.....	do.....	1,800
Lerna, Marie.....	do.....	do.....	1,620

You will note that there are four whites and one Negro in this office, the Negro being the fair-practice examiner. * * *

Mr. HOFFMAN. I also wish to file a minority report which I made some years ago. It is a part of House Report No. 187 of the Seventy-ninth Congress, first session.

Mr. POWELL. Without objection, it will be incorporated in the record.

(The document referred to is as follows:)

MINORITY VIEWS OF REPRESENTATIVE CLARE E. HOFFMAN, OF MICHIGAN

The bill is based upon certain findings of fact and a declaration of policy. If the findings be erroneous, or the declaration of policy unsound, the bill should be recommitted.

FINDINGS

The reason given for the adoption of this proposed legislation is that, due to discrimination because of race, creed, color, national origin, and ancestry, less than a full measure of employment (a) has caused industrial strife; (b) forced large groups of our population into permanently substandard living conditions, which, in turn, has (c) created a drain upon the resources of the Nation, (d) a permanent threat to industrial peace and to a standard of living necessary to the health, efficiency, and well-being of workers.

To give Congress jurisdiction to enact legislation to end the discrimination, it is charged that such discrimination in industries engaged in commerce, or in the production of goods for commerce, causes the spread of such discrimination and a diminution of employment and wages to such an extent that it impairs and disrupts the market for goods and obstructs commerce.

The bill then states the obvious fact that individuals should have the right to work without discrimination because of race, creed, color, national origin, or ancestry; but it pointedly ignores the equally obvious fact that individuals have the right to work without discrimination because of membership or nonmembership in a labor union.

DECLARATION OF POLICY

The declaration of policy is somewhat like the false front on the country store, in that, instead of being a two-story measure to end discrimination against the worker, it wholly ignores the discrimination which permits the levying of a tax upon the overwhelming majority of workers, bars thousands of others from the more lucrative jobs, and makes no effort at all to eliminate, even in wartime, the principal cause of industrial strife which has cost millions of man-days of work.

The foregoing is true for the reason that, while the bill avers that it is the policy of Congress to protect the right to work without discrimination because of race, creed, color, national origin, or ancestry, it makes no attempt to end the discrimination practiced because of lack of union membership.

It takes no more than a moment's consideration to show that the bill is not one to end discrimination against workers as a class, for, under it, a black, yellow, or brown individual, be he Jew, Catholic, Protestant, atheist, or infidel, if he be a member of a union, is protected, while, though he be white, a Jew, Catholic, or Protestant, but not a member of a union, he may seek employment in vain. Even his Government will in many cases issue an order requiring him to become or to remain a member of a union.

REASON FOR PROPOSED LEGISLATION

In truth and in fact, while the avowed purpose of the bill is to end discrimination, give equality of opportunity, in employment, another objective is to bring about, through Federal legislation, a social intermingling (and some advocate intermarriage) among the races.

Others support the bill because it is believed that, by so doing, the political support of the Negro as a race can be obtained for certain candidates or partisan measures. Neither major party is without sin in this last respect.

THE BILL'S SUPPORTERS

Good citizens, sincere in their convictions, in a hurry to see all Negroes in possession of jobs, homes, and as well educated and financially established as is the average white, believe this legislation will do for the Negro what others think can be accomplished only by time and education.

Others, professional reformers, without convictions of any kind, see in the bill an opportunity to reap a rich financial reward through the exercise of their professional talents as creators of unrest and the advocacy of controversial legislation.

Still others supporting the bill—and reference has been made to them—are so-called "amart" politicians, who think that the holding out before the Negro, not only of the justifiable hope of equal opportunity for employment, but the vision of an immediate Utopia, where all men will intermingle, intermarry, will secure for them the support of the Negro voter.

While the bill by its terms is all-inclusive, practically it offers additional opportunity to the members of but one race, the Negro.

The Negro, because of the circumstances under which he was brought to this country and because of conditions beyond his control which have since existed, has not, as a race, made the same advancement as have members of other races.

Today, few indeed are those who would deny to the Negro equality of opportunity; but there are many who have the future welfare of the Negro at heart, who desire to assist him in every way, who are firmly convinced that, while he should be given equality of opportunity, yet moral and social inhibitions and in-born race prejudices cannot be wiped out by legislation.

Once upon a time, not so long ago, a majority of our people by a constitutional amendment attempted to end the excessive use of spirituous and intoxicating liquor. That noble experiment should make us cautious in attempting to accomplish by legislation that which only education and tolerance can bring about.

The fate of this bill should be decided, not upon any false premise but upon a consideration of how the Negro can best be given equality of opportunity, not only for employment but for education and the exercise of his religious freedom.

Since the War Between the States the advancement of the Negro in economic and educational fields has been marvelous. Through the practice of tolerance, through education, a sure and sound progress will be made and the goal desired by Negro and by white alike will finally be reached.

The forcing of the issue, through legislation by sincere but misguided individuals, by professional reformers and soap-box orators, by cunning politicians, will, in my judgment, delay the attainment of a greatly desired end.

METHOD

Both major parties have promised, and our people desire, an end to the creation of additional bureaus, commissions, and agencies.

Experience under New Deal agencies, such as the National Labor Relations Board, the Office of Price Administration—yes, and even our recent experience with General Hershey, Director of the Selective Service System—has demonstrated that the departure from constitutional procedure, the issuing of rules, orders, and directives as the substitutes for laws and the decisions of courts, does not aid in giving our people equal justice under law.

It took the Anglo-Saxon race hundreds of years to obtain, establish, and, to a large degree, perfect the judicial system, which still, in spite of attempts to destroy it, is the most efficient method of administering justice between individuals ever created.

This bill creates another commission. It legalizes an executive agency which, in its own official family, has disregarded the principle of equality of opportunity, of representation.

If this bill is made legislation, the taxpayers will have thrust upon their already overburdened shoulders not only an additional tax burden, but an agency under which the individual's right to a trial by jury will be denied him.

THE ALTERNATIVE

If a majority of the Congress believes that legislation against discrimination should be enacted, then our time-tried and time-proven system, which guarantees to the individual due process of law, should be adopted, and the protection of the rights which this bill proposes to give should be entrusted to the judicial branch of our Government.

If so entrusted, a judge, learned in the law, free from political influence, will interpret the act; a jury will pass upon the facts; the accused will not be subject to a punishment imposed by some bureaucrat, by some partisan, by some crackpot, whose sole qualification is loyalty to a theory, ignorance of realities.

Discrimination, if such exists, can be prevented, adequate redress given, through the use of the judicial machinery already in existence. No additional cost, except perhaps for the payment of some additional clerical and stenographic assistance, would be imposed.

At present, there is a deplorable lack of confidence in the fairness, the integrity, the efficiency, of administrative agencies. The courts still retain the confidence of the people.

Entrusting the administration of any legislation which it is deemed wise to adopt to the judicial branch of our Government is imperative if we are to retain our constitutional rights and processes.

The possibilities for the exercise of tyranny under the interpretation and administration of this bill, or any other legislation of its nature, are so apparent that the creation of an executive agency to interpret and administer it would be but another transfer of a portion of the power of the judicial to the executive branch of the Government—another step toward dictatorship.

Respectfully submitted.

CLARE E. HOFFMAN.

MR. HOFFMAN. Then I wish to call attention to the fact that when we had similar legislation before the labor committee, of which at that time I was honored to be a member, I inquired of the Census Bureau as to the number of Negroes who were employed in Government jobs. According to the 1940 census, the Negroes constituted 9.77 percent of the total population, and they held 9.91 percent of the jobs. Then the Fair Employment Practice Commission which was in existence at that time, which was supposed to end discrimination or at least to lessen it, gave 69 percent of its jobs to Negroes, paid Negroes 55.88 percent of the total funds which it used for employment. So that Commission itself, in its own practices, apparently made no effort to end discrimination. It discriminated in favor of the Negroes.

At that time only 41 percent of its jobs were available to all others who might apply—all others other than Negroes; and only 44.12 percent of its funds were paid to all others. That is, whites and yellows and browns and whatever they might be, received but 44.12 percent of the funds and only 41 percent of the jobs.

The record shows this. I have before me a copy of a report given at that time by the Committee on Fair Employment Practices, Division of Review and Analysis, dated January 1946. You will find the figures with reference to all Negroes in Government employment on page 20. There, as to the Fair Employment Practice Commission, the total employed was 114, of whom 61 were Negroes. The percentage there was 53.5. Then it divides it into departmental personnel, and there the total was 54, and the number of Negroes employed was 34, and the percentage was 63.

When you get over to the field employees, 60 was the total, and there were 27 Negroes. They numbered 45 percent. If the committee cares for that report, they may borrow it.

I might pause here for a moment to say that in Michigan we have practically no discrimination. The passenger cars of the trains are occupied without regard to race, color, or anything else. The dining cars are open to people of all races. And in my own district, the Fourth District—and the Fourth District, I might say, includes Cass County, which prior to and during the Civil War was one end of the underground railway over which came many, many Negroes from the South—slaves at that time; in Cass County there are several townships—three, I think—where the Negroes for a long time constituted a large proportion of the population. Today they own farms; they

own stores. There is absolutely no conflict. In some of the cities, where they come in from Chicago and some other areas, there has been some little trouble, but no more than you will find in any community where there are mixed groups.

As to the legislation proposed, from my observation during the 14 years that I have been here, I have not too much faith in Government commissions. I still adhere to the opinion that our judicial system is the best form yet devised for administering justice. I still prefer—and I practiced law for something like 40 years—a trial before a jury rather than before a judge, believing as I do that the judgment of 12 men—or 6 men, as we have in the lower courts—is far superior to the decision of 1 man, if the objective is the obtaining of justice. And if we are to have legislation along the lines suggested—that is, to prevent discrimination in employment—it has been my observation while sitting as a member of the Labor Committee and subcommittees thereof, that sometimes the objective is not preventing discrimination in employment, but rather other objectives, such as intermingling of the races.

But, to go back, if we are to have legislation of this kind—that is, legislation having that objective in view—then I think we should write legislation which will submit the controversy to the courts. With that in view, as long ago as January 31, 1945, I introduced a bill. It was H. R. 1908. It was a very simple bill. I have it here before me. It takes just two sides of one sheet. It merely provides that if there is discrimination, then the person discriminated against, if he has been injured, shall have a right of action. That first bill provided that the action should be in a Federal court.

Then later on, realizing that not all of the people can get to the Federal courts very easily, I had a bill, H. R. 6738, introduced in June of 1946, which was much the same—and that only covered two pages—but in section 4 it stated that—

Any person injured by the violation of the preceding section shall have the right to recover of any person violating said section all actual damages which are the proximate result of such discrimination in any United States district court of the district or in any court of record of the State wherein either the person discriminating or the individual against or in favor of whom such discrimination is practiced may be a resident, and such damages shall include the actual, reasonable, and necessary costs of such action, including an attorney fee of not less than \$25 nor more than \$200, the amount thereof to be determined by a jury selected in the usual manner.

You notice that gave the person who claimed he was injured the right to legal services at the expense of whoever was guilty of discrimination. There might be added to legislation of that kind a provision which would give the person who filed the complaint the right to an attorney of his own selection, to be paid by either the State or the Federal Government, the idea being to insure anyone who claimed there was discrimination adequate legal service in presenting his case, to meet the argument so often made that people who were discriminated against had no adequate remedy and were unable financially to employ an attorney.

I think that is all I care to say. I realize you gentlemen have other work and are extremely busy, and I want to thank you again, and reiterate my position, that I believe we should not have discrimination, but I think the remedy is through education, and then if you must have

legislation, it should be legislation which would make available to the poorest individual in the land the processes of our courts, which I again repeat, in my judgment, at least, are the most efficient and best designed to secure justice for all.

Mr. POWELL. I want to thank the gentleman from Michigan, Mr. Hoffman, for his remarks. I take it, then, that you are in favor of fair employment practices?

Mr. HOFFMAN. Yes, but not necessarily of legislation.

Mr. POWELL. You are in favor of the principle of fair employment practices?

Mr. HOFFMAN. I do not think there is any doubt. Everyone should be treated fairly and equally and have equal opportunity. But I do not believe in agitators or self-appointed apostles of righteousness, or whatever they may want to designate themselves as being, taking over the proposition. I have seen so little discrimination in my community that it is difficult for me to realize that some of the statements made by advocates of this sort of legislation are factual.

Mr. POWELL. I think it is very important now to note that you are in favor of the principle of fair employment practices, but do not agree with this approach.

Mr. HOFFMAN. I do not know of anyone who does not agree that we should have equal justice under law.

Mr. POWELL. I served with you in the Seventy-ninth Congress on the same committee, and I remember your views then toward fair employment practices were the same. The only thing you disagreed with was the commission idea. You believed that the courts and jury system would be sufficient.

Mr. HOFFMAN. You do not go quite far enough. I do not believe legislation is necessary.

Mr. POWELL. You do not believe legislation is necessary?

Mr. HOFFMAN. No; I do not. We are gradually getting where there is no discrimination.

Mr. POWELL. But you have introduced these bills, however, of your own.

Mr. HOFFMAN. I introduced those bills. The Republican Party, as I recall—I could not say with the idea of getting the Negro vote, because that would just be my personal guess, maybe—endorsed it. And when the leadership seemed to insist that we must have legislation of this kind, I fell back upon trying to make it as workable and as inoffensive to everybody as possible, and best designed, I thought, to attain the announced objective.

I have never been able, Mr. Powell, as I said to you in private conversation, and perhaps in public statements, to find just where the line of preference, which we all exercise in every walk of life and all of our activities, ends and discrimination begins. That has been my difficulty. And it is still with me.

Mr. POWELL. I want to point out just one thing. In your remarks you mentioned the wartime FEPC and the percentage of personnel which was Negro. If we read this bill very carefully, there is no percentage set up at all under fair employment practices; there is no standard or percentage.

Mr. HOFFMAN. I understand that.

Mr. POWELL. So if a Government agency, or an employer, or a union has more Mexicans than it has whites, or more Catholics than Protestants, or more Negroes than whites, that does not in any way show that they are discriminating against or in favor of it, because we are not interested in percentages.

Mr. HOFFMAN. My only point in calling attention to that was to show that when you set up a fair employment commission to prevent discrimination, the result was not an equality of opportunity, or an equality in the giving of jobs, but that very commission set up to end discrimination practiced it, as shown by the results. Now, why they did it, I do not know; but they did it.

Mr. POWELL. I differ with you on that, because I do not think that the preponderant percentage of a minority indicates discrimination. I can point to several businesses operating now in the South that employ more Negroes than whites. I do not think they are guilty of discrimination. What I want to get before us is that percentages do not prove pro or con the question of discrimination, and the bill does not mention that in any way. The bill merely says that no person who is qualified shall be denied the right of opportunity.

Now, if there happen to be more Jews, or more Catholics, or more Mexicans, or more Chinese, or more Negroes qualified for any particular kind of work, or the employer feels that he wants more of them, that is his business.

Mr. HOFFMAN. No; not under this legislation.

Mr. POWELL. Under this legislation, it is his business.

Mr. HOFFMAN. Oh, no. Under this legislation, if the commission decides that a Mexican should be employed instead of a Negro, the Mexican gets the job, if they are of equal ability.

Mr. POWELL. No; there is nothing in this law that will force any employer to discharge anyone to put in his place a person of another racial or religious group.

Mr. HOFFMAN. No; but how about filling new jobs?

Mr. POWELL. New jobs, yes, on an equal basis, if qualified.

Mr. HOFFMAN. If, in the judgment of the commission, they should have a Mexican in there, and the employer does not want him, he takes him.

Mr. POWELL. If, in the judgment of the commission, the Mexican applied along with other people for the job and by virtue of his experience and education he was just as qualified, or more so—not less, but just as much, or more so—then if he felt he had been discriminated against because he was a Mexican, he goes through the process of this bill, and if in that process he is found not to have been discriminated against, then the petition is thrown out. And then at the end of the process, you do have recourse to the courts.

Mr. HOFFMAN. And experience has demonstrated that the commission considers itself the advocate—the special pleader—for the person who applies. All you need to do, if you want to see how these commissions and boards act, is to go back and read the hearings of the special committee appointed, of which Judge Smith was chairman, to investigate the National Labor Relations Board, and there is no room for argument. After you read the reports you will find that the National Labor Relations Board was the organizing agent of the CIO as against the AFL. There is not any question about it. They took

their position and they built up and made possible the growth of the CIO to the detriment of the AFL, and as a witness I can cite the testimony of William Green.

Mr. POWELL. That may be true. But what about the Interstate Commerce Commission?

Mr. HOFFMAN. I do not know so much about that. I cannot speak from personal knowledge. I followed the other very closely.

Mr. POWELL. There are other commissions operating for the Government that are fair. I think the ICC—

Mr. HOFFMAN. For instance, take the Committee on Agriculture. Who seeks places on that committee? Those who are interested in agriculture. And so it is in all. There is no way of changing it, and perhaps that is right. We know the Committee on Agriculture looks after the farmers' interests, and the Labor Committee looks after the interests of labor. I find no fault with that. Naturally we find it that way.

Mr. POWELL. Let me get that straight. The Committee on Labor looks after what?

Mr. HOFFMAN. Looks after the interests of labor.

Mr. POWELL. I hope so.

Mr. HOFFMAN. As distinguished from the interests of the employer. There is not any argument about it. We all know that that is why the Department of Labor was created. You know that as well as I do—better than I do, probably.

Mr. POWELL. The vote does not show that, however.

Mr. HOFFMAN. How is that?

Mr. POWELL. I said the vote does not show that the Committee on Labor looks after the laboring man only.

Mr. HOFFMAN. Not only. I did not say "only." I said especially. You have a predominance. There were two or three of us on there who were opposed to the present demands of the labor leaders. Rightly or wrongly, I contend that my views are more to the interests of the average worker than are the views of some unannounced prolabor leaders. And if I would be permitted, and not be too presumptuous, I would say if you do want to end discrimination, why don't you include in this bill, as I did in one of my bills, discrimination because of membership or nonmembership in a labor union? You are in favor of that discrimination, I assume. When I say "you" I do not mean you individually. But there are individuals who are opposed to employing anyone who does not belong to the union, which, of course, is the reverse of the yellow dog contract. And the amendments the other day were intended to bring back the prohibition of the closed shop. I am speaking to you now personally. I cannot see how you can be consistent and say there should be no discrimination because of race, creed, color, and so on, but there shall be discrimination because of membership in or nonmembership in a union. Why not extend it to fraternal organizations, and say you have to be a Mason or an Odd Fellow? That is what you get to when you go into this subject.

Mr. POWELL. Have the gentlemen from the subcommittee any questions? Mr. Perkins?

Mr. PERKINS. I understood you to say that you believe in the State fair employment practice acts that have been set by several States.

Mr. HOFFMAN. No; I did not express any opinion about State legislation.

Mr. PERKINS. Do you have a statute to that effect in Michigan?

Mr. HOFFMAN. No; in Michigan we have a statute, as I recall, which prevents discrimination in certain cases. It is the Civil Rights Act—so called—chapter XXI of title 28 (Mich. Stat. Ann.). That statute was held to be valid in 333 U. S. 28.

Mr. PERKINS. It is just a limited statute in scope.

Mr. HOFFMAN. That is right.

Mr. PERKINS. And I believe that you also stated that you had noticed very little discrimination in Michigan.

Mr. HOFFMAN. That is right. Of course, I do not live in Detroit. I live in the western side of the State.

Mr. PERKINS. You do not know the extent of the discrimination in Detroit and over the Nation, do you? Are you acquainted with it?

Mr. HOFFMAN. No; I am not a traveled citizen.

Mr. PERKINS. Do you believe in legislation that would eliminate discrimination between races?

Mr. HOFFMAN. Primarily, no; I do not. I do not think that legislation of that kind is workable. I do not think it will end discrimination. I think it will lead to trouble. The only purpose I had in mind in introducing the bill was to lessen what I thought would be the evils of legislation along that line.

Mr. PERKINS. If discrimination does exist in this country, how can we alleviate that discrimination, other than by legislation?

Mr. HOFFMAN. Only by changing human nature. And how are you going to eliminate stealing and drunkenness? You have laws against it, true; but it does not eliminate it.

Mr. PERKINS. That is right. I agree with you that education is perhaps the best way. But the laws against drunkenness, and things of that nature, put them on a minimum basis. Do you not think legislation of this type would also put discrimination on a minimum basis?

Mr. HOFFMAN. No more than prohibition convinced people they should not drink. It just did not work. I might say to you as I said to Mr. Powell that I cannot determine where the line of preference is. You practice discrimination, I practice discrimination every day in what we eat or drink, or in our associates. Now, where does that line of preference, which is your right and mine, end and illegal discrimination begin?

Mr. PERKINS. I think this subject is far deeper. It is based on the theory that people should not be discriminated against on account of race, creed, or color. And if those conditions exist, and especially where the people are put on the same level of efficiency, and discrimination exists, do you not think that some legislation should be enacted to take care of conditions of that type?

Mr. HOFFMAN. That depends upon what your theory or philosophy of life is. Your argument rests upon the assumption—

Mr. PERKINS. In employment practices.

Mr. HOFFMAN. Your argument rests upon the assumption that a man is entitled to a job if he is qualified, does it not, and should not be discriminated against because of his race or color?

Mr. PERKINS. That is right.

Mr. HOFFMAN. All right. Now, who creates the job? You create the job. You go out and work. Maybe you start at the beginning on the soil, and finally you want to hire somebody. Is that your job or

my job? Have I the right to come along and say to you, "Listen. I want that job. I am qualified, and under the law you must give it to me, instead of to Mr. Powell."

Mr. PERKINS. This bill does not do that.

Mr. HOFFMAN. Yes, this bill says, as I understand it—perhaps I do not understand it—that if there are equal qualifications—

Mr. PERKINS. That is right—that there shall be no discrimination. That is all it provides.

Mr. HOFFMAN. All right. You having created the job—

Mr. PERKINS. With equal qualifications—

Mr. HOFFMAN. You having created the job and being forced to pay the employee, shouldn't you have the right to say to whom you shall give it?

Mr. PERKINS. Let me ask you this question. If the qualifications are equal, is the employer making any sacrifice if the Commission is set up to see that fair employment practices are carried out?

Mr. HOFFMAN. He is injured to this extent, that his right to use his own property and spend his own money is interfered with, and if you are going to have an agency selecting between two equally qualified people as to which one shall have the job and draw the employer's pay check, then certainly you are discriminating against the employer.

Mr. PERKINS. I think the purpose of this bill is to put it on a little higher plane that you speak about, Mr. Hoffman. I believe that legislation of this type would expedite the educational features to which you refer, and I agree with you that this problem has to be also approached from an educational standpoint. But I think we have to have legislation to go along with it, so that there will be some inducement from the people who are discriminated against, and they will feel that they have some protection.

Mr. HOFFMAN. In what field do you mean?

Mr. PERKINS. If they are qualified to hold certain positions, as stenographers, or qualified to render any other service.

Mr. HOFFMAN. With respect to a stenographer in your office or my office, how are you going to determine equality of qualifications—a word, a look, the manner of thinking?

Mr. PERKINS. Efficiency.

Mr. HOFFMAN. Oh, well; some can take dictation so fast, and they can put it back on the typewriter. You would give them equal rating. Well, now—

Mr. PERKINS. That is all.

Mr. POWELL. Mr. Burke, of Ohio?

Mr. BURKE. My theory of this is that one of the foundation stones of our Nation as a nation is the principle that all men are created equal, and as far as the setting up of any artificial barriers by reason of race, creed, color, national origin, or whatever it might be, we are declaring that, in this legislation, to be abhorrent to our constitutional set-up. For instance, I would like to cite some of my ancestral experience. My grandfather came to this country, and his first job was in the Union Army. When he was discharged from the Army and went to find a job, he would go to the employment agencies, or whatever was provided for at that date for distribution of jobs, and he would find a list of jobs, but at the bottom was this information: "No Irish need apply."

Mr. HOFFMAN. That was not building railroads, nor policemen.

Mr. BURKE. Well, he pushed westward and finally wound up in Ohio. But as I understand this type of legislation, it is to prevent that sort of artificial barrier to employment opportunities, and it is only for that purpose. As Mr. Perkins says, it will be an incentive to accelerate the educational process.

Mr. HOFFMAN. Do not misunderstand me. This is because the Negroes have not progressed as far as others. There is no such thing as discrimination against the Jews. In this country, if I understand the situation correctly, the Jews have the world by the tail. They are on top. So I do not think it applies to them. And as far as the Negro goes, because he has not made as much progress, perhaps educationally and financially as other races, my own thought would be to give him the best end of it. I can illustrate that this way: In Benton Harbor we have many colored folks who come from Chicago. They are not Negroes; they are colored people. And over there on the beach, the mayor at one time—for what reason I do not know—asked my advice about this indiscriminate bathing on the beach. He said, "What are we going to do? If this keeps on, we may have trouble." They did not have any trouble, but I said I would call in the ministers and the leaders of the Negro race; I would divide that beach half and half. They are only a comparatively small part of the population. And then I would say to those Negro leaders, "Now, you folks take whichever half you want." I would give them the best end of it. I would give them school facilities equal to or better than I gave the whites. But I would not force them to mix.

Mr. BURKE. That would be discrimination in their favor, then; would it not?

Mr. HOFFMAN. All right. We can take it. That is the American attitude: Give the fellow that you might term the underdog in any way the better end of it. That is your practice. I have never heard of an Irishman complaining about discrimination against him. I have heard people say that an Irishman was a fighting, drunken Irishman, and the Irishman would jump up and click his heels together and say, "Come on, buddy, if you think you can get the best of me."

Mr. BURKE. That is about right.

Mr. HOFFMAN. Yes. And you are here in Congress. Was it your father or your grandfather that you thought was discriminated against?

Mr. BURKE. I did not say he was discriminated against, but that is the condition he found.

Mr. HOFFMAN. But he came through all right?

Mr. BURKE. Oh, yes.

Mr. HOFFMAN. Yes, sir.

Mr. BURKE. That is all.

Mr. POWELL. I would just like to interrupt to say that this bill does not outlaw segregation. It just outlaws discrimination.

Mr. HOFFMAN. I was bitterly criticized by an editor in my district because on the floor one day I said I would give one car on our trains in Michigan to whites, I would give one car to the colored, and I would give one car to the mixed, where everybody could get in it if they wanted to.

Mr. POWELL. That is when you and I were having some discussion one day.

Mr. HOFFMAN. Yes. And they said I was unfair in that.

Mr. PERKINS. Mr. Hoffman, I would like to ask you one more question. When you say that your figures show that the wartime FEPC made no effort except to end discrimination, are you saying that the Commission turned down the application of qualified whites?

Mr. HOFFMAN. I know nothing about it. I only know the result, as given in their report.

Mr. PERKINS. That is all, Mr. Chairman.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. I have no questions.

Mr. POWELL. There are no further questions.

Mr. HOFFMAN. Thank you very, very much.

Mr. POWELL. Thank you ever so much, Mr. Hoffman.

Representative Laurie Battle.

TESTIMONY OF HON. LAURIE C. BATTLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. BATTLE. Mr. Chairman and members of the committee, I have prepared a statement based on H. R. 21. May I ask before I start if this new bill, H. R. 4453, is practically identical, at least in purpose?

Mr. POWELL. It is practically identical, except for a couple of minor things, such as the shifting around of some of the sections in different places and raising the salary of the Commission members from \$10,000 to \$17,500, and the chairman gets \$20,000.

Mr. BATTLE. With the committee's indulgence, I will testify against both of them.

Mr. Chairman, the enactment of H. R. 21 or H. R. 4453 would be a serious mistake, in my opinion. Such legislation is unconstitutional, unenforceable, and unwise. This is clearly a proposal for too much government.

Discrimination of itself is a bad practice, of course. I am not here to defend it. I would like to say why I feel this bill is not the way to attack discrimination in employment.

In the first place, H. R. 21, or H. R. 4453, is unconstitutional. Quoting from H. R. 21, on page 10, line 14, we read:

No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpoena of the Commission on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty of forfeiture.

I am wondering since when we have undertaken to rewrite the Constitution in this manner. It would seem to me that it would be much more appropriate to pass such a law against the Communists rather than against our loyal American unions and businesses.

What part of the Constitution gives the Government the right to establish a Federal agency that can bypass the State government, that can bypass the local government, and that can go into a restaurant in Birmingham, Ala., or Seattle, Wash., and judge whether or not a Negro or Japanese waitress has been discriminated against? The bill would invade the realm of human activity which is not subject to legislation. Why not enact laws requiring all people to be kind, or to like everybody else? They would be just as sensible.

How can an agent of the Government peer into a man's soul and tell whether he acted through discrimination or for a dozen other rea-

soms? Is it the prerogative of the Government to decide that an employee was dismissed because of his church affiliation rather than because he was an inferior worker? If the Government ever assumes this right, America cannot call her soul her own.

The American Bill of Rights guarantees certain freedoms to the individual. This bill would deny some of those basic rights: Freedom of contract, freedom to choose those who work with you or for you. These would be destroyed by such legislation. Under this bill, you would even be denied the right of trial by jury, as fundamental as any civil right.

First, then in my opinion, the bill is unconstitutional. Second, it is unenforceable. Imagine the enormous network of Federal agents required to ferret out and report cases of so-called discrimination throughout the land, to investigate and hold hearings. An army of investigators could never scratch the surface.

Business and labor unions would be constantly disrupted by Government investigations. Employees would feel insecure and suspicious of each other; morale would be destroyed. Actually, the bill would discriminate against the majority by giving special privilege to the minority. A union or an employee would hesitate to take any action at all involving a member of a minority group for any reason, no matter how valid.

As was pointed out in the minority report on S. 984 of the Eightieth Congress, relative to a similar bill:

In any establishment, employees and applicants for employment are certain to include persons of different races, religions, or colors. Any selection in treatment of a particular person can plausibly be complained of as an unlawful discrimination.

Small-business men and unions would not have the time nor the money to spend for going to court to appeal unfair decisions, or to make so many appeals on unfair decisions of the Fair Employment Practice Commission.

H. R. 21 prohibits discrimination against properly qualified persons, and I assume that H. R. 4453 takes the same line. But who is to decide whether a person is properly qualified? Is the employer no longer to have that right? And who has the final say as to whether an employer or a union acted through discrimination? These are intangibles beyond the power of the Government to decide. Apart from these arguments, there are certain communities which by tradition and heritage are deeply opposed to enactment of this kind of law. In these places, such a law could not be enforced except by mass coercion.

Walter Lippmann puts it this way:

There are certain kinds of laws which, though enacted, cannot be enforced by any means that the majority is able or willing to employ. These are laws to which a sizable region, even though it is numerically a minority in the Nation, is so deeply opposed that it will resort to nullification, resistance, and passive and active disobedience, to thwart enforcement, and in the extreme and ultimate cases, to insurrection and rebellion. The cost, the trouble, the futility, and the danger of trying to enforce laws under these conditions are so great that the majority will not, as a matter of fact, insist on enforcing them. If it is wise, it will not enact these laws.

I remind you that these are the words of Walter Lippmann.

Of the more than 500,000 people who live in my district, an overwhelming majority agree with Mr. Lippmann that this type of legislation is unwise. This is not because the majority of our people are

unintelligent or uneducated or biased; it is because our people, the wisest and the most forward-looking, the true leaders of both races, are convinced that the delicate problem of race relations must be met by enlightened action from within and not by coercion from without.

This is a program which is exceedingly intricate and far reaching, not to be dealt with lightly or with expedience. To understand the problem requires first-hand study over a considerable period. It is something which must be lived with. Only then can a realistic solution be worked out.

To be successful, legislation in the field of race relations must be grounded in the good will of the people who are to carry it out. It must be local in origin and spirit. Of course, this implies the responsibility of a community to meet its minority problems squarely with an enlightened program and with constructive action. This we are doing in the South. Substantial progress has been made and is being made, progress which would be seriously retarded by the enactment of the proposed legislation.

As an example, in the city of Birmingham our Negro population is from 41 to 43 percent of the total. You will probably be surprised to learn that in 1947 slightly over 43 percent of the tax funds available for education went to Negro schools. Some people are more interested in making political capital out of this issue than they are in investigating the facts.

For these reasons I join the many liberal, realistic thinkers throughout the country who feel that the enactment of FEPC would be unwise. To make political sport, as some would do, of issues which form the very fabric of life in many States, and which affect the day-to-day lives of millions of our people, is short-sighted, indeed. To enact such a bill would set back many years the accomplishments of generations in the field of race relations in my part of the country. It would be a sad day for the courageous, high-minded men and women of both races in the South who are working against odds, but persevering toward the solution of one of the most challenging problems our people were ever called upon to meet.

That concludes my statement, Mr. Chairman.

Mr. POWELL. Mr. Battle, I appreciate your statement, and I would like to say just one or two things. First, I would like the clerk of our committee to give you a copy of the questions and answers which I have prepared on the bill, and they could answer some of your statements in detail.

During wartime we had a temporary FEPC. It operated in all sections of the country and handled about 7,000 cases. What was your opinion of that?

Mr. BATTLE. Being rather involved in the war and overseas part of the time, I did not observe it very closely. I really could not express an intelligent opinion on it.

Mr. POWELL. I can show you that the wartime FEPC, which handled 7,000 cases, in the South as well as the North, and adjusted them without any coercion, met with community cooperation and no ill-will resulted. You know, of all the civil-rights proposals before Congress, although the FEPC seems to meet with most resistance, it happens to be the only civil-rights proposal which is not new, but which actually was in practice for about 3 or 4 years during the war

period. Antilynching, the abolition of segregation on interstate transportation, the abolition of segregation in the armed forces—all of those parts of the civil-rights program have never been tried out. But this has, and it met with cooperation.

With regard to its being unconstitutional, that issue has been raised by a similar bill. The New York State FEPC was taken to the Supreme Court—that is, the section involving trade unions; not the whole bill—and the Supreme Court ruled that it was constitutional. As regards the right to interfere in a person's business, I feel that it is the legitimate concern of a community that the industry within that community should employ all available labor without regard to race or religion. We are not telling the employer that he must employ inferior people; we are not telling the small employer who has 50 workers or less that he is under this act at all. The small employer, the small-business man, the small-farm owner, anyone employing under 50 people, is not involved in this act. We are not telling social organizations or religious organizations that they come under this act; they are exempt, also. But we are saying that where a business is operating with more than 50 people, it should give everyone in the community a chance, if they are qualified.

Mr. BATTLE. Why in this legislation—if I may be permitted to ask a question—do you not work with the States in this matter? The legislation which I read—H. R. 21—and I believe H. R. 4453, also—states, in effect, that it is permissible for you to consult with the States and with the local governments in this matter.

It looks to me that you are completely bypassing those agencies of the Government.

Mr. POWELL. I do not think it would bypass them, because the bill, as you just said, says that the commission is to work in cooperation with local, regional, and State organizations. And then the commission—

Mr. BATTLE. May I ask if that is what the bill says? It is my impression that it said they may consult with them.

Mr. POWELL. Yes; that is the language.

Mr. BATTLE. That is quite a different proposition.

Mr. POWELL. You would prefer to see the language that the commission must consult with them; is that what you prefer?

Mr. BATTLE. I would certainly think that we should cooperate with the State and local governments.

Mr. POWELL. I think the committee, when it gets to reading the bill—because I do not intend as the chairman to have the bill brought out without giving it full consideration—could think that proposal over, that the commission must consult with local, regional, and State governments.

Mr. BATTLE. I think the States' rights involved here is a serious problem and should be seriously considered.

Mr. POWELL. I think that is a good suggestion.

Mr. PERKINS?

Mr. PERKINS. No questions.

Mr. POWELL. Mr. Burke?

Mr. BURKE. I have no questions.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. Mr. Battle, I am just curious as to what effect this bill would have if it were in operation. I realize, of course, that you prob-

ably have not had the opportunity to study it at length, but, generally speaking, in this field of fair-employment practices, I think most of us recognize that one of the major problems is in the Southern States. I think that is a statement that would be generally agreed with, although, of course, there are problems also in some of the Northern States in the industrial areas as well.

In the event that such a law were on the statute books, I am just wondering what effect you think it might have, we will say, in a given industry in the Southern States. I realize this is a general question. But I wonder if you have thought that through and would give the committee your opinion as to the possible effect of such a law.

Mr. BATTLE. Mr. Nixon, of course I would just be speculating, but I am under the impression that if such legislation were passed and became effective overnight, pandemonium would break loose. We would have a terrific number of claims of discrimination, and it would take all of the efforts of the entire agency for the following 6 months to try to straighten out just a few of those claims in almost any area of the South. I do not believe it is workable. I believe the whole procedure will be too cumbersome and will cause serious disruption in industrial areas.

I also believe—and this is honestly my opinion—that it would cause a certain tenseness in our relations which does not exist at the present time.

Mr. NIXON. Tell me what steps, if any, are being taken at the present time—say, in your State—to meet the problem of discrimination as it exists today?

Mr. BATTLE. I believe that education is one of the most progressive and most proper methods of eliminating ill-feeling between the races and eliminating discrimination, and I believe that we have made and are making quite a step forward in that respect. Efforts are being made by leaders of both races. They include citizenship tours, which the Negroes are participating in on their own, and the whites are participating in on their own. They come here to the Capitol and go to the United Nations, trying to become better citizens and trying to understand national and international problems. There are meetings of public-spirited groups going on all the time, trying to understand our problems better and trying to solve them. There are quite a few steps we are taking.

Mr. NIXON. In other words, you recognize that the problem exists, but you have doubts about the method proposed to meet it, as I understand it.

Mr. BATTLE. I have strenuous doubts about such legislation working for the good of all concerned.

I believe it would heighten the tension in the South.

Mr. NIXON. Do you feel that the Commission which would be set up under this bill would be able to carry out the provisions of the bill in a State or district like your own? I am speaking now of the practical problem of enforcement.

Mr. BATTLE. Of course, it could be carried out, but it would certainly take, as I indicated in the statement here, methods of enforcing obedience to such legislation that I hope we never have to resort to and that none of us wants to resort to. That is one of the reasons I think we should not pass legislation which will have that reaction.

Mr. NIXON. I think one thing that should be said in regard to this legislation is that the criminal sanctions are quite mild which have been set up in it, and I think that, probably, as I read the questions and answers which have been prepared on the legislation by the sponsor, the reason that was done was that it was recognized that there would be a considerable problem of enforcement. And for that reason, firmer steps could not be taken.

Mr. BATTLE. I might say in that connection that the opposition would come mainly on principle rather than because of any sanctions or penalty involved. It is the principle of the Federal Government setting up a Federal agency which can bypass the State governments and the local governments and can come into a man's little business, which he has always felt was his own, and tell him who he should or should not hire, in effect.

Mr. NIXON. Your thought, then, is that in the event this law were passed by the Congress, the people in your district which, shall we say, is a typical district in the South—

Mr. BATTLE. An enlightened district.

Mr. NIXON. Would not be behind it from the standpoint of public opinion, and for that reason you would have difficulties in putting the law into effect; is that the sense of your statement?

Mr. BATTLE. The sense of what I am saying is that our law enforcement people, in doing their duty and their job conscientiously, would try to enforce the law, but they would be trying to enforce a law which they themselves did not believe in and which the people whom they are trying to force it upon do not believe in, and it would be almost impossible to enforce.

Mr. NIXON. You think the great majority of people in your district would be of the same opinion that you are, as far as that is concerned?

Mr. BATTLE. Very emphatically so.

Mr. NIXON. Do you think that over a period of time, the attitude of the people toward legislation of this type might change, through, we will say, education and other methods that are being used to bring the problem to the people?

Mr. BATTLE. You mentioned education. I think Federal aid to education will do more for better understanding and better race relations and will help our situation much more than any legislation of this type could ever do.

Mr. NIXON. You favor that?

Mr. BATTLE. I favor Federal aid to education, without Federal controls. And I think that would be a big step forward, and I think it would help us a great deal.

Mr. NIXON. That is all.

Mr. POWELL. I would just like to say one last thing. I appreciate your point of view that this bill has two things that might mitigate your situation. One, this bill does not in any way say anything about segregation. It just mentions discrimination.

Mr. BATTLE. That would be a help so far as my people are concerned in backing up the law.

Mr. POWELL. And the second thing is that section 7 on page 11 of the bill, gives us the exact words which might answer a previous objection of yours.

Mr. BATTLE. What line is that?

Mr. POWELL. Line 3. It reads:

Provided, That the Commission is empowered by agreement with any agency of any State, Territory, possession, or local government, to cede to such agency jurisdiction over any cases even though such cases may involve charges of unlawful employment practices within the scope of this act, unless the provision of the statute or ordinance applicable to the determination of such cases by such agency is inconsistent with the corresponding provisions of this act or has received a construction inconsistent therewith.

That would definitely tie in, and give the State the jurisdiction.

Mr. BATTLE. It would tie in. It would be a mighty weak tie-in, when you say that the Commission is the one that is empowered by agreement with an agency of any State, and so forth. The Federal agency is the one that would make the decision as to whether or not it will consult local governments or turn it over to them. And I can see a Federal agency coming down to Birmingham and saying, "All right, boys. We will turn this problem over to the city commission to settle."

If that is the way you are going to do it, why not just forget the law to start with, which I think would be a good thing to do?

Mr. POWELL. Thank you.

Mr. BATTLE. Thank you, Mr. Chairman.

Mr. POWELL. Is Representative Howell present?

Mr. HOWELL. I am here, sir.

TESTIMONY OF HON. CHARLES R. HOWELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. HOWELL. I have a brief statement here that I would like to read, and then I shall be glad to answer any questions you might have.

Mr. Chairman and members of the committee, I am Charles R. Howell, a Member of Congress from the Fourth District of New Jersey, and a member of the House Committee on Education and Labor, to which this subcommittee will make its report and recommendations. Since I had a rather substantial part in the passage of our New Jersey fair-employment legislation, as a member of the New Jersey House of Assembly, I feel somewhat competent to testify on the bill which you are now considering.

Our New Jersey act, which follows the general pattern of H. R. 21—and I assume that the current bill is not too different, from what you have said, except that I notice it leaves out the provision for regional councils, which I think possibly might have some merit—places a greater emphasis at the conciliation and education level, as contrasted with the use of the penalty provisions of the act. It has worked well in New Jersey. Members of minority groups—Negroes in particular—have been employed in many industries which previously were closed to them, and in many higher positions for which they were substituted. I have heard of no employers who felt that they were being imposed upon, especially after they had given it a trial, and after they realized that the law did not compel them to hire persons who were not fitted, but that it only asked that they not turn down, or fail to upgrade, applicants who had the necessary skills and ability solely on account of their race, color, or religion.

So far in New Jersey, after nearly 4 years of operation, unless there had been a very recent case which escaped my attention, it has not

been necessary to resort to formal hearings or use of the penalty provisions. All cases have been adjusted at the conciliation level. It is necessary, however, to have the enforcement powers in the background to obtain the cooperation of employers and others covered by the act.

Evidence that this type of law has worked well in our State is provided by the fact that our legislature at its recent session and without one dissenting vote has placed the enforcement of its other general civil-rights laws against discrimination in public facilities and so forth, which have been on the books for many years, under the division against discrimination, which is handling the enforcement of the Fair Employment Act so successfully.

In my opinion, fair-employment legislation is the most fundamental and important phase of the civil-rights program. Guaranty of employment opportunity in accordance with one's ability, education, and talents can accomplish more than anything else in the solutions of the problems of Negroes and other minority groups.

There is very little incentive for members of minority groups to become more educated and more useful and more responsible members of the community if they continue to be denied the right to be employed in positions for which they are qualified by education, training, and natural ability, solely because of their race, color, or religion. The right to be employed and to contribute to the full extent of their abilities will provide Negroes and other minority groups with a real incentive to develop and become more responsible, more useful, and more acceptable citizens.

This legislation has worked well in New Jersey and in several other States and cities. It can work elsewhere, even in the South, if administered wisely.

I think if we revert for a moment to the situation which has been suggested by Mr. Nixon and Mr. Battle about how it would work if tried in the South, we may be fearing more there than actually exists. I think if it could be understood by the people who will be affected by the law, both the potential employees and members of minority groups and by the employers, that it does not require them to hire Negroes or Mexicans or Chinese or anything else just to have them represented among their employees, that it does not give the Negro or anybody else the right to be employed unless he actually has the qualifications for the job and is acceptable in every other way, but it just says that you cannot turn him down because he is a Negro, a Catholic, a Jew, or whatever the case might be—I think if that is gotten across to both the employer groups and potential employees, a lot of the misunderstanding about the law would be done away with and it would not be as hard to sell to the people in some of the Southern States.

That is the end of my testimony. I would be glad to answer any questions.

Mr. POWELL. Thank you, Mr. Howell.

I personally accept your opening remark that we do not have in this bill the regional council proposal. I think it would be very wise if this committee, reading the bill over, would consider adding that to the bill.

I would just like to ask you one question, not to embarrass you. There was a time not so long ago when, in the North, people of my minority group thought that New Jersey was a pretty tough State.

In the past 2 years, New Jersey has surpassed even New York State with civil-rights laws which are broader, much more stringent, and that go deeply to the heart of the problem, which have been passed by the people going to the polls and have been passed by both Houses of your legislative body. And the reaction of the people to this new civil-rights atmosphere in New Jersey is of what nature? Has there been a violent reaction any place, especially in south Jersey? What has happened?

MR. HOWELL. I do not think there has. It was anticipated that there would be a much more violent reaction to it. Of course, I would admit that there are a number of people who have inborn prejudices, who like to talk about those things and rebel to a certain extent, but I think the general acceptance by the public has been very, very good, and the result has not been that the situation has caused any great difficulty to adjust to. We have a good, workable fair-employment law. We have provided an acceptable and workable way of enforcing our general civil-rights laws. We have done away with discrimination in our National Guard and militia. That is, at least we have decided to do away with it, and we are making a start to implementing that.

I was agreeably surprised to find as the result of a questionnaire that I sent out in my district, that people are very, very substantially behind most of the items in the President's entire civil-rights program. I was most agreeably surprised at the extent of their acceptance of it. It was rather overwhelming. I do not think it has created any great problem, and I think we have done a fair thing that is going to be of great help.

MR. POWELL. Mr. Perkins?

MR. PERKINS. No questions.

MR. POWELL. Mr. Burke?

MR. BURKE. Mr. Howell, I appreciate your very fine statement, particularly as it applies to the experience that you have had in your own State. One of the things I think you have done for us is to point up that this bill, like the type of law that you have in your State, is not a law that says to the employer, "You shall not hire certain people." It merely says that race, color, creed, and national origin, or whatever it might be, shall not be either a qualification or a disqualification, or a bar to employment; is that not your point? It boils right down to that?

MR. HOWELL. That is right. I think there is one point of misunderstanding among the public generally and even some people who might conceivably know better, that that is not involved. You do not have to hire a certain number of Negroes or a certain number of Jews. You do not have to hire any of them unless some who are eminently qualified apply and you have positions available to put them into, and then you only have to hire them if they are at least as qualified or better qualified than others that you might have under consideration.

MR. BURKE. The only thing is that you cannot set up divisions between the people on the basis of race, religion, and so on, as a bar to employment.

MR. HOWELL. That is right.

MR. BURKE. That is all.

MR. POWELL. Mr. Nixon?

Mr. NIXON. Mr. Howell, when you had this bill under consideration in the State legislature, did the unions support it?

Mr. HOWELL. The CIO, as I recall, supported it rather substantially. The AFL, in the beginning, had some misgivings on it, but after those things were ironed out, I think we got fairly good cooperation and support from them, too.

Mr. NIXON. How has it worked insofar as unions are concerned?

I assume you have a similar provision as we have in the bill before us.

Mr. HOWELL. Yes, sir. I, of course, have not had any great hand in the enforcement of it, but my understanding is that there have not been any serious instances crop up where it has caused any difficulty with the unions. There have been a few cases where complaints have been made against unions, and I think at this first conciliatory level they have been adjusted and ironed out, and it has not presented any great problem in that respect.

Mr. NIXON. Tell me, when you passed your law in New Jersey, was that the first time that the bill had come up for consideration in the State legislature, or had there been a period, shall we say, of education, in which the legislature and the public became ready for the passage of such a bill?

Mr. HOWELL. My impression and understanding is that the year prior to my first year in the legislature—I was elected in 1944 and went in in January of 1945—there had been introduced one or two minor bills along that line, not a complete fair employment practices act. But they had received no serious committee study or consideration by party caucus, or anything. I introduced the first bill that year, and a good bit of support was generated behind it by organizations and individuals to the point that it could not be brushed off lightly. And since I am a Democrat and in a small minority there, they do not let us pass any bills. But when the Republicans introduced it, I was glad to get behind it and support it, and I think it has really worked very well. So there was not any long period of study, but it was introduced early and passed toward the end of the session.

Mr. NIXON. There was, you would say, substantial support for the legislation in the press, and in the legislature, and by reason of those facts, with the public generally, you think, when the bill was passed?

Mr. HOWELL. Public hearings were held. And, of course, this is the type of bill that a great many people who might be against it sometimes hesitated to come out in public hearings and oppose. But there was virtually no opposition at that public hearing. Many organizations throughout the State—not only Negro organizations and so forth—did get behind it; organizations like the League of Women Voters and a number of social and welfare organizations, and citizens' organizations. It got wonderful support that way, to the point where it was difficult for the legislature not to do something about it.

Mr. NIXON. That is all.

Mr. POWELL. Thank you.

Representative Burnside, of West Virginia.

TESTIMONY OF HON. M. G. BURNSIDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

Mr. BURNSIDE. I am Representative M. G. Burnside, from West Virginia.

The findings and declaration of policy here take me back to the classroom. I am a former professor of political science and constitutional law. So I am quite interested in the statement that you have here:

The Congress recognizes that it is essential to the general welfare that this gap between principle and practice be closed.

We have been teaching things like that for many years in political science over the country. I think that is a good statement.

I remember quite well over in the Far East that we brained programs that would fit very well into this introductory statement to this bill with respect to our findings and declaration of policy. Then we got quite a severe shock from this type of thing. Our programs along the theoretical lines were so very, very successful. Then after the war, many of the people took us at our word. The result was that we had a terrific amount of unrest in the Far East. New governments sprang up that were interested in democratic principles.

I know that all of you gentlemen have examined closely the Constitution of the United States. If you will examine it, you will find the basis for these ideas that you have so well stated here in the introduction to this bill. I am afraid much of the unrest has been brought about the same way. We have been giving the theory to the world without living the practice, and I am afraid we have brought about much of the controversy that we have had in this country because we have continuously given out the theory and not living from the standpoint of practice.

That is one reason why I was interested in coming here to speak in behalf of this bill and in favor of the Federal Fair Employment Practice Act. I campaigned on that issue in West Virginia, and I am glad of the opportunity to speak favorably for the act.

I would be glad to answer any questions if any of you would like to ask me some.

Mr. POWELL. Thank you, Representative Burnside. I think the statement you have made is very interesting with regard to the international implications of this, so much so that I would like to say that the Secretary of State, Dean Acheson, will testify before these hearings conclude on the value of this act as far as our Nation's relationship to peoples all over the world, and he has so indicated. Just yesterday I had a conference with the United Nations' delegates from various portions of the world, and all of them just could not understand how there is a difference between principle and practice.

I think this, as you pointed out, will go toward making that internationally better known and more understandable.

Mr. BURNSIDE. I think the same thing is also true in this country, the theory that we have been teaching and the practice that we have been following.

Mr. POWELL. Are there any questions? Mr. Perkins?

Mr. PERKINS. No questions.

Mr. POWELL. Mr. Burke?

Mr. BURKE. No questions.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. You have no doubt, then, as far as the acceptance of this law in your district in West Virginia is concerned?

Mr. BURNSIDE. Oh, yes; I would probably have some doubts.

Mr. NIXON. I mean, generally speaking.

Mr. BURNSIDE. Yes; I think so. I have not run into any serious objections. I say, I campaigned on it, and I got the second largest majority in the history of the district; so it must not have aroused too much opposition.

Mr. NIXON. The reason I ask the question is that I think we have the practical problem in the case of this legislation as to how it is going to work. And, of course, how any piece of legislation is going to work depends upon how much public opinion is behind it.

Mr. BURNSIDE. Yes; I think it does.

Mr. NIXON. And that is why I am asking you the same question that I asked Mr. Battle.

Mr. BURNSIDE. We have a large number of former southerners, if that is what you are driving at.

Mr. NIXON. Yes; I am.

Mr. BURNSIDE. They are in southern West Virginia, a large number. But I have not run into any serious objections along this line. I have had some objections. With anything you do constructively you are going to run into objections. But I think that still you have to fight for these constructive ideas, whether you run into objections or not.

Mr. NIXON. As you see it, then, if the law were on the books and put into effect, you think the people generally in your district would support it?

Mr. BURNSIDE. I think so.

Mr. NIXON. Thank you.

Mr. POWELL. Thank you ever so much, Mr. Burnside.

We will now have the testimony of Congressman Rodino of New Jersey.

TESTIMONY OF HON. PETER W. RODINO, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. RODINO. I am Representative Peter W. Rodino, Jr., and I appear here today in support of H. R. 4453, a bill designed to promote fair-employment practices by eliminating discrimination in employment because of race, creed, or color.

This bill will establish, as the policy of the United States, that the right to employment and to seek employment shall be guaranteed without discrimination because of race, creed, color, national origin, or ancestry, and that this principle shall be embodied in the body of the United States statutes with enforcement machinery to insure that it will become more than a pious platitude.

This is not a new and strange concept. This bill seeks to close a gap in our civil-rights laws. It is one more step in the direction of making real the ideals which we so often proclaim.

The bill seeks to profit by our war and postwar experiences, which demonstrates that discrimination in employment can be eliminated when backed by legislative authority.

The issuance of Executive Order 8802, by President Roosevelt, for the purpose of integrating minority groups into the defense, later the war program, represented the final step of a series of measures taken by the Government to insure full utilization of the Nation's manpower during the recent war. This series was initiated in July 1940 when, in recognition of the growing demands for labor and the development

of potential labor shortages in particular areas, the National Defense Advisory Commission established an office in its Labor Division to eliminate discrimination against Negro workers because of their race and to facilitate their integration into training programs and industry. This was followed by an announcement of the United States Office of Education that—

In the expenditure of Federal funds for vocational training for defense there should be no discrimination on account of race, creed, or color.

In August 1940 the National Defense Advisory Commission issued a statement of labor policy which recited that workers should not be discriminated against because of age, sex, race, or color. President Roosevelt reiterated this policy in a message to Congress on the progress of the defense program.

In appropriating money for defense training in October 1940, Congress stipulated that—

no trainee under the foregoing appropriation shall be discriminated against because of sex, race, or color, and where separate schools are required by law for separate population groups, to the extent needed for trainees of such groups, equitable provision shall be made for facilities for training of like quality.

During the same month an agreement was reached by the A. F. of L. and the CIO with the National Defense Advisory Commission to accept responsibility for removing barriers against Negro workers in defense industries.

In an effort to implement this statement of policy, the aforementioned statute and agreement, various Government officials issued a series of special letters and instructions. These included a letter in November 1940 to State and local boards of education by John W. Studebaker, United States Commissioner of Education, in which he called attention to the nondiscrimination clause in defense-training legislation and urged all directors of defense-training activities to take special steps to facilitate the training of Negroes.

Meanwhile the Office of Production Management had been created to replace the National Defense Advisory Commission. It instructed its regional and field representatives to consider the problems of Negro workers as related to upgrading and the apprenticeship programs in defense plants. At its request, Mr. Sidney Hillman sent a letter in April 1941 to all holders of defense contracts, urging the removal of laws against qualified Negro workers in defense industries. Mr. Hillman also created a Negro employment and training branch and a minority groups branch in the Labor Division of the Office of Production Management.

On June 21, 1941, President Roosevelt issued a memorandum to Messrs. Knudsen and Hillman which gave his full support to the Hillman letter to defense contractors and in which he placed responsibility on industry to utilize the labor of all loyal and qualified workers regardless of race, creed, color, or national origin.

These steps, although admittedly forthright expressions of national policy, were not effective in controlling discrimination against minorities in defense employment. Help-wanted advertisements still called for "white" mechanics, or "gentile" factory workers, or even "Protestant white gentiles." Defense training courses were often advertised to exclude Negroes, Jews, Spanish-American aliens, and

other foreign-born citizens. Members of certain religious denominations were on the unwanted list. Negroes had a phrase for it, "The last hired and the first fired."

Underlying these Government pronouncements against discrimination had been a prevailing and anticipated manpower shortage. Total and global war required total mobilization of the entire production potential of the arsenal of democracy, yet, however pressing the need and however high the stake, old patterns were slow to change. Negroes particularly, aroused by the inspiring statements of principles defining the war conflict between the democracies and the totalitarians, called attention with increasing vigor and bitterness to the special disabilities to which they were subjected within the framework of a democracy. In response to their growing protest, the President, on June 25, 1941, issued Executive Order 8802, which reaffirmed "the policy of the United States that there shall be no discrimination in the employment of workers in defense industries or Government because of race, creed, color, or national origin" and created the Committee on Fair Employment Practices to carry this policy into effect.

Inherent in the promulgation of this order was the implicit recognition that the right to work is a civil right and must be accordingly protected. It is not enough that full and equal membership in society entitles the individual to an equal voice in the control of his Government; it must also give him the right to enjoy the benefits of society and to contribute to its progress. The opportunity of each individual to obtain useful employment, at his highest skill, must be provided with complete disregard for race, color, creed, and national origin. Without this equality of opportunity the individual is deprived of the chance to develop his potentialities and to share the fruits of society.

The majority group suffers through the loss of the full contributions which might have been made by persons excluded from the main channels of social and economic activity.

This Committee on Fair Employment Practices appointed by President Roosevelt successfully functioned until June 1946. In their letter transmitting the final report of this committee to President Truman, June 28, 1946, the committee stated:

The committee's wartime experience shows that, in the majority of cases, discriminatory practices by employers and unions can be reduced or eliminated by simple negotiation when the work of the negotiator is backed by firm and explicit national policy.

FEPC's unsolved cases show that Executive authority is not enough to insure compliance in the face of stubborn opposition. Only legislative authority will insure compliance in the small number of cases in which employers or unions, or both, refuse after negotiation to abide by the national policy of nondiscrimination.

President Truman in his letter of acceptance stated that:

The degree of effectiveness which the Fair Employment Practice Committee was able to attain has shown once and for all that it is possible to equalize job opportunity by governmental action, and thus eventually to eliminate the influence of prejudice in the field of employment.

I would like to submit for the record the final report of the Fair Employment Practice Committee, as I think it answers many of the objections raised against H. R. 4453, the bill now under consideration.

(The final report referred to above is on file with the committee.)

President Truman has repeatedly recommended the passage of legislation guaranteeing fair-employment practices, since Congress

ordered the termination of the wartime FEPC in the National War Agencies Appropriation Act of 1946.

President Truman, on July 26, 1949, implemented his recommendations to Congress by issuing an Executive order creating a Fair Employment Board in the Civil Service Commission, with the responsibility of insuring equal opportunity in the employment and promotional policies of the Federal Government.

The several State legislatures have created State fair-employment practices statutes with enforcement powers, namely: New York, Massachusetts, Connecticut, New Jersey, Washington, Oregon, New Mexico, and Rhode Island.

It is well to point out at this time that the passage of the statute in New Jersey strengthened the law in New York, likewise the passage of the Massachusetts FEPC law strengthened the law in New York and New Jersey. The fact that the New England area is now pretty generally covered has added to the effect of the law in each State, and to its effect in the fact that the laws are so much alike in their terms it has enabled a cooperative effort and policy. However, it is well to realize that these State laws will be still needed, after a national law is created, in order to deal with industries that are intra-state in character.

The passage of a national law in this field is entirely consistent with our American constitutional traditions. It is another important step toward closing the gap between our stated ideals and our day-to-day practices. It is the fulfillment of a promise that both political parties made to the American people.

Mr. POWELL. Our last witness for today is Representative Bennett, of Florida.

TESTIMONY OF HON. CHARLES E. BENNETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. BENNETT. My name is Charles E. Bennett. I am the Congressman from the Second Congressional District of Florida, and I appreciate this opportunity to come and speak about the proposed FEPC law.

I listened with interest to what Mr. Burnside said a minute ago when he said he campaigned in support of this law. I campaigned in opposition to the law, and I had a race in the general election last November which was rather revealing as far as race relationships are concerned, because thousands of colored people vote in my district. In the election I opposed the FEPC law, and my Republican opponent was generally believed to support it. As I remember it, I carried the sections which were predominantly colored by about the same ratio as I carried the rest of the district, which was about 10 to 1 in that election.

I would like to say, somewhat by way of introduction, that I am, of course, very much opposed to discrimination of any kind. I have helped to support activity in my district over matters with regard to better race relationships. I am not saying I am the only one, but I have certainly been belligerent and active, regardless of where the chips may fall, and, regardless of the political consequences, I have tried to make for better relationships. They are not perfect, but I personally feel that race relationships are better in the South than

they are anywhere else in the country. I believe that the people get along better there. You will find a lesser percentage of race riots, less hard feeling, and less misunderstanding in the section of the country in which I live than anywhere else in the country.

There are many opportunities for the colored people that have not been fully realized, and there are many things that can be done for the colored people. Specifically, in my home town, I have worked to try to bring about the establishment of proper recreational facilities, and better educational facilities. In the near future, I expect that several miles of beach will be set aside, which is priceless on the Florida shores, as you know, for the colored people in the vicinity of Jacksonville. I expect that a swimming pool will be built there, which I, among other people, have been campaigning for, and been very active in trying to have established.

The schools of the South generally are not what they should be. I have introduced H. R. 1201, which is a bill to provide that the Federal Government shall reimburse the state governments 100 percent for the construction of Negro schools over the next 10 years, the idea behind this being that there is a national responsibility on the part of our Government to assist these people. Our Federal Constitution was a document, a compact, a contract, between the various States by which our Government was established, and it acknowledged and allowed slavery to exist. It even allowed the importation of slaves and the slave trade until 1808. Slavery itself was abolished by fire and sword in the War Between the States, and as a consequence the National Government then washed its hands of the problem which it had helped to create. It left the South impoverished with no Marshall plan, or no program for taking care of either white or colored people.

I believe the National Government has a responsibility to aid the South in both construction and maintenance of Negro schools, although I am not asking for all that. I am just asking in my bill for aid in the construction of the Negro schools. I think the South can carry on the rest. But it is financially unfeasible for any comparable section in the country to construct the schools that should be constructed for the colored people at the present time. The money is just not there. It cannot be done. It would wipe out everything else in the area. In fact, it would exceed the possibilities of the people to pay in taxes.

I have been to see the President about this bill. I have done everything I can to forward it. Now, I realize that I am taking up your time by talking about extraneous matters, and I will get back now to talking about the FEPC law.

I am not ordinarily a very disabled person, but I am slightly disabled. I wonder when you draw up a law like FEPC why it would not be just as logical to say that it should apply to disabled people, or maybe even freckled-faced people, or people that smile the right way or smile the wrong way. How are you going to draw up a law which will be practical and really be a workable law?

I do not believe in drawing laws which offer the people things which are not actually going to come about as a result of that law. We enacted a prohibition law in the hope that everybody would stop drinking. I suspect 999 people out of 1,000 would probably agree that it would be a good thing if liquor had never come on earth and if man

had never discovered it. Most people enjoy it; most people do not get any material harm out of it. But when you do see some of the ones who are seriously injured and whose lives are wrecked as a result, there is not but one conclusion to come to, and that is the fact that we are worse off as a result of its presence.

So we enacted a prohibition law in the hope that it would eradicate the situation. But as a matter of fact it did not.

Now, this law—the FEPC law—as I understand it, is primarily designed to be applicable to the Southland. It will have, naturally, its most numerical impact in that particular area. And how will it be enforced? How will it be carried out? Will it be a mere farce? I am told that in other areas of the country where such laws have been attempted, the law is not enforced in any real sense of the word at all, but that it is just a sham, and that they hire people under the counter, you might say, so as to evade the law.

Now, personally I do not think any man ought to discriminate against any other man because his face happens to be black or his hair happens to be curly. I do not think he should discriminate against him because he happens to be disabled. I do not think he ought to discriminate against him because of his religion. But when you go to saying in a law that a man cannot discriminate, you have done something else. As a practical matter, you have said, regardless of what the words are that you use in the law, that people can litigate the question of whether or not they have been discriminated against. So as a practical matter, the chief result as far as I can see of this particular law will be that there will be litigation and trouble and strife about particular people who cannot get along with their fellow men.

They are going to be bringing lawsuits to try to see to it that they are going to be employed, because they happen to be colored, and not because they were discriminated against because they are colored, but people who want to get employment are going to raise this issue and stir up a lot of strife and have a big impact on society involved simply because of some personal desire for aggrandizement or some desire for the particular job involved. Probably it will be more often the former, people who will desire to stir up strife and become the center of controversy and some sort of hero in the eyes of a few people.

We do not have that kind of people in the South at the present time. One thing that always astounds me, when I read in the newspapers and magazines and hear over the radio about the relationships of people in the South, is the great distortion of facts. You would almost conclude that everybody condoned lynchings in the South, that people hated the colored people, and that they were always trying to hurt them in every possible way.

As a matter of fact, the situation is just exactly the contrary. I myself come from slave-owning ancestors. I have been reared in the southern tradition. I have never felt, and none of my friends and none of my relatives have felt, that we were superior to any other type of people just because our faces happened to be white. I think the colored people have pride of race. It does not mean that they look down on the white people; it means that they prefer to be among themselves as a general rule. They like to associate among themselves. You cannot change the nature of human understanding across the world.

When I was overseas in the Orient, I happened to be a platoon leader of some American soldiers for a while, and I had asked some of my friends there among the Filipinos why the Filipino girls did not go more often with the American soldiers. They said, "Well, now, lieutenant, we would be happy to see to it that there are some dates provided for the boys in your platoon if you would like to do that, but most of these girls feel that Filipinos are for Filipinos and Americans for Americans. They will go with the American soldiers just to be friendly. But as far as any serious thing out of it is concerned, it would not take place." That is not because anybody there has a feeling of superiority or inferiority.

I think people who fight for things like FEPC are either not properly informed about the circumstances or they are very much misled in some manner. I think, as a matter of fact, the enactment of an FEPC law will not bring about harmony; it will bring about a lot of evil and a lot of harm. It will stir up all these troubles that have taken place in the past. They are mostly historical at the present time.

I am not trying to condemn the press at the present moment, and I certainly would not want to. But when I was overseas in New Guinea I read with astonishment that the number of lynchings in the South averaged about 100 a year. Well, in the next week's Time magazine, I read in a small footnote that actually it had not been quite 6, the average. Instead of 100, it was 6. And as a matter of fact, there have not been any lynchings in my area for many, many years. Since I have been back from overseas, the most inflammatory thing that ever occurred with reference to race relationships involved the question of sex relationships. That perhaps is the basis of most of the difficulties. There have been several horrible rapes by Negro men of white women, including murder, since I have been back, and I have only been back a few years. There has been no lynching involved in it. The men have been tried and they have been sentenced for the thing they were tried for.

In the State of Florida, we have on occasion—several times—convicted white men and sent them up for long terms for raping Negro women. And you would never realize that sort of situation takes place if you read the newspapers or the magazines or listened to the radio commentators. They are just as distorted about that as they are about labor-management laws or many other things. They seem to think that Congress is entirely the puppet of people in the big unions, that everything they do up here is a lot of chicanery, and they are doing it just for political advantage.

So it is with the veterans' pension laws. You would think that Mr. Rankin is a pure demagogue, from reading most of the newspapers, and personally I think he desires very much to solve a situation which is of great importance with regard to our veterans. But you would never guess it from reading the newspapers or the magazines or listening to the radio.

I thought before I came here that there was only one portion of American society which was distorted, and that was the question of relationships between the black and the white people of the South. Since I have come here, I have come to the conclusion that distortion runs the gamut from A to Z, and that there are many things which I can hardly accept when I read the accounts in the usual newspapers. Here in Washington they are a little better.

In speaking on this matter, I am trying to speak frankly. I think the colored people can be helped tremendously. They have already been helped tremendously. Just before I left to come up here—I am very much interested in housing legislation—I went through the colored section of my home town, where there are about 75,000 or 80,000 colored people. There is generally a need for much better housing for Negroes, but things are not as universally bad as usually depicted. I saw one house there that the real estate men who were with me estimated probably cost \$100,000, and another one that cost \$50,000, which were new and were being occupied by colored people. Many of them have servants. My family has never regularly had a servant since the early days when they had slaves, long ago. They have never been able to afford it since that time.

Many of those colored people have servants, have several cars, and have big homes. One man in my home town runs an insurance company staffed by colored people from bottom to top. He employs nobody but colored people. He has a tremendous concern. I imagine his income must be—I would have to guess here on the record—but I imagine his income might be as much as \$25,000 or more. There are other colored people who run transportation facilities, funeral homes, restaurants, and things like that. I think, if you look in the record, you will find that there are more professional people from the colored people per capita in the South than there are per capita in the North. I think their chances of getting ahead in industry are better in the South than they are in the North. They cannot go to the top in the North. I think they are generally held down.

We have pride in our race, and the colored people have pride in their race. I do not think they ought to be mixed up. When the colored people write me about schools, they say they want better schools, but they do not say they want segregation abolished. They are proud of their race. I think they should be proud of their race. I think they should be proud of the integrity of the race. There is plenty of room in the South. The sky is the limit. There is nothing that cannot be done.

My chief feeling about all these laws is that they must stem from the people that are to be controlled by the laws, primarily. I was a member of the Florida Legislature which abolished the poll tax. I feel that the poll tax should be abolished. I personally do not favor—at the present time I have not been convinced, at least—that they should be abolished from a national standpoint. I think the States ought to be able to work those things out gradually for themselves.

However, I would say that I do not think anybody is being prohibited from casting their vote by the poll tax. They are very small taxes. They count something toward our educational system, but I do not think that anybody is being excluded on account of that. I think that in most—possibly all—States that I have had anything to do with they should be abolished. But I think that is a thing that they should do for themselves.

I think there is some help that could be given to the South in the field of lynchings, the few that occur—there are practically none that occur any more—in that some assistance could be rendered to the Governors who request it or to the sheriffs who request it in the field of trying to find out who the culprits are. I think many State laws ought to be revised with regard to sex crimes between the various races.

There are many other things that I think can be done to help. But the most basic feeling I have about FEPC stems from my own human experience. A boy who runs around in juke joints all the time is not very likely to be happily married or even likely to associate all the time with somebody from a Methodist Epworth League. It is just human nature. Race is not involved in what I am saying now. People generally seek people that they are fairly similar to. They generally try to build up their acquaintanceships among those people. It does not mean that people think that other people are any worse or any better. I talked very recently with Princess Red Rock, an Indian, who is very much interested in things that can be done for the Indian race, and I was interested in some of her comments about what could be done. I was also interested in pointing out to her that perhaps some of these aborigines in the Indian race ought not to be forced too far against their will. If they want to do a certain thing, maybe they should be allowed to do it.

When I was in the Hawaiian Islands for about 7 months in the early part of the war, I was astounded to see the difference between the native Hawaiians and the other people. They live about the way they want to live. They live rather primitively, you might say. They have their outrigger canoes, and they live in nipa huts. They are not particularly poor people. They are fairly happy people. That does not mean that they are happy people just because they are ignorant, because they are not. Many of them have wonderful educations.

I met in the Philippine Islands many people of similar caste. I remember meeting a man who was in my father's graduating class from George Washington University here in 1905. I remember meeting this fellow, who at the time was dressed as simply as a coolie. He was a very happy man in the Philippine Islands. I do not know why we should press them into different kinds of fields if they do not want to be in those fields. And I do not see why we should try to rework society against the laws of nature and against our own human instincts.

I am against discrimination—very violently against discrimination—but I do not think a Federal law will accomplish anything, and I think it might make for a spectacle which will not be helpful for our country. I think the State laws could be improved with regard to certain things, but I doubt that there should be any State FEPC laws. I think what needs to be done—and I am very realistic about approaching all problems with regard to the colored people—I think what is needed is that more economic opportunity be made available to the colored people. But they are not exactly up against a brick wall at the present time. It is not perfect, but I think it is much better than it would be under FEPC.

Now, I have talked too long here, and I have made this entirely extemporaneous, but it is all from my heart. I am very sincere about this. I want to help the colored people so much that I would say there is probably nothing in my public life that touches me more than trying to help the colored people. I think I have shown it in the past. I have openly tried to help them when it was of no political advantage, and perhaps of political danger to myself, because of misunderstanding; and I have backed all movements that I thought were practical to help them. I may be wrong in my thinking, but I think that I am

right, and I come from an area where the problem is prevalent. I am not coming from some remote area. I am coming from an area where the actual situation exists.

I think the Federal Government ought to try to help in the things where the colored people can be helped, and there are many places where they can be helped.

We can have, for instance, a greater aid in the control of venereal disease. There is a terrific incidence of venereal disease among the colored people of the South. There is a terrific tubercular rate. It is five times what it is among the white people. Maternity death rate is three times as bad among the colored people as it is among the white people. They do not have proper hospitalization facilities. But all of these things largely stem from lack of funds.

Now, the Federal Government, in my opinion, in washing its hands of the colored people at the end of the War Between the States, did a very serious injustice to everybody in the country and to the colored people particularly. I would not say to the South particularly; I would say to the colored people in the South particularly. I am not asking anything for the South. I would think the colored people need help in the South or wherever they may be, and I think the Federal Government ought to realize some of that responsibility, but I do not think it ought to do it in this back-handed way, which is impractical and will cause nothing but hardship and ill will all the way through.

I am for trying to help people where they can be helped, and I do not care whether it kills my political career to do it. It is a much bigger thing than "little me" is in this matter, and I would like to help in every way I can.

Now, I said I was going to stop a minute ago, and this time I will. Are there any questions anybody would like to ask me?

Mr. POWELL. I appreciate the statement from Representative Bennett of Florida. There are a couple of things that I would like to mention in reply. The first is that this bill, and I hope you will have a chance to read it—

Mr. BENNETT. I read the previous one.

Mr. POWELL. This bill does not in any way go into any of the problems the gentleman mentioned—social, education, recreation, or transportation. It just goes into the field of employment. And when it goes into that field, it goes into that field only insofar as there is discrimination, but not segregation. Segregation does not come under this bill at all.

Mr. BENNETT. As a practical matter, Mr. Powell, if you have a concern, for instance, where there are, say, three or four white girls that must work at night, the average person in the South, whether he be colored or white, would think it would not be a matter of discrimination to refuse to employ a colored man to be with those girls at night. As I said before, a lot of this trouble stems from lack of education which has brought about things which are unpleasant.

Why are there separate drinking fountains in certain sections of the South? Well, because the incidence of venereal disease is much higher among colored people.

Why is there segregation on buses and things of that kind? The average person in the South does not necessarily want to see those

things exist forever, but only to meet real problems as they exist. When the colored man is sufficiently educated, when he is free, relatively, from venereal disease and when he knows how to conduct himself properly among people on streetcars and busses, the problems such as those will be solved. And they are being solved all the time. The time will come in the near future, in my opinion, when the colored people and the white people will sit together on buses. There will be no problem about it.

I think the time will probably never come in the foreseeable future when it will look like the wise thing to do to put colored people and white people in the same schools, where there are large percentages of both races, for the basic sexual reason. That is, it is just not a wise thing to do.

But as far as employment is concerned, I tried to point out as far as some of the theory of it is concerned in this law, the theory may not be so bad, but the practice of it will mean that the only result of it will be that colored people will be suing white employers for whatever reasons they may have, for aggrandizement or for personal gain, to see that they are employed. Particular people will be so suing or so litigating the matter. That is what is going to result from it. And why should an employer not be allowed to look a man in the eye regardless of what his race is or whatever it may be?

Personally, I would like to choose people a good deal by how their eyes look. I am a primitive man, I guess. When I look at a man's eyes, I can pretty well feel in my heart that that man is honest or dishonest. I tell a lot from a man's eyes and the way he smiles or looks, and the little things about his life. I pay more attention to that than I do to a man's employment record in the past.

I do not see why an employer should not be able to employ whom he desires to employ. And I do not, therefore, see how you can ever make this law a practical law. It seems to me it is offering in theory a lot of things to people that it is just not going to be able to give them in practice, and it will just stir up difficulty. It is going to make a vehicle for Communists and other people who want to destroy our country, to make a theater or an arena for trying the South over and over again, and we have not had a fair break.

The South has had untruths told about it so long that we are almost getting a callous over our soul on the matter. The colored people feel the same way about it as the white people do. Where does the strife come up from on this particular question? It comes from left-wingers, Reds, Communists; it comes from people up here in this much-stirred-up northeastern part of our country; not that it is all bad, but it has produced a lot of pretty wild people, with pretty long hair, and we just do not feel that way in the South.

We feel in the South that we represent traditional democracy. We feel that we are for the principles upon which our country was founded. It is not that we want to turn back the pages of history. It is that we want to be practical people. There is no section of the country that is more deeply religious than the South. There is no section of the country that has supported highly idealistic domestic and international affairs more than the South. The only place where you find any friction at all is where the North attempts to force on the South things that it knows nothing about.

I believe, if you put the thing to a poll in the South among the colored people, you would find that none of this so-called Truman civil-rights program, or practically none of it, would meet with their approval. I told you how my own voting took place. I actively campaigned in opposition to the Truman civil-rights program. My Republican opponents differed on this point with my campaign, yet I carried the colored section by about the same large margin found in other areas, and I think that is a pretty good indication.

They knew the issues. Heaven knows, it is blasted all over the radio and the newspapers and everything else. They think that I am a practical man and that I am going to try to help in practical ways and I am not scared about it politically. And I am not.

I know I have lost votes among certain classes of people by the position that I have taken, and I have a right to do it. I think it is a big thing—much bigger than myself. But I feel that a law like this is not going to accomplish the good that it promises and that it actually will stir up difficulty, which will not be helpful.

Mr. POWELL. I would like to say one or two things in reply. The first is that when you say a bill like this comes from Communists and long-hairs in the North, this bill was sent from the White House. I did not see it, not a word of it. This was drawn up by the President of the United States and introduced in the Senate by Senator McGrath, of Rhode Island, the national chairman of the Democratic Party, and introduced by me after it was drawn up. I did not even see it until after Mr. Truman had it drawn up.

Mr. BENNETT. Mr. Truman is a wonderful man—

Mr. POWELL. I just want that to be a matter of record. This did not come to me from the National Communist Party; it came from the National Democratic Party.

Mr. BENNETT. Mr. Truman is a wonderful man. I issued statements of my endorsement of him to the press when he was running. I made some 40 speeches in which I recommended his reelection to the Presidency. In so doing, however, I said that the people of the South would have a man there that has some comprehension of what he spoke of, although he was misled, in our opinion, and that a vote for Thurmond would be a vote for Dewey indirectly, and that Dewey would be probably less practical with regard to race relationships than would our President.

I think our President is a man of very high ideals; I think that he is very misled on this particular question. Personally, I feel that we ought to approach it in a more logical manner, and I myself wonder why it is, when the South has contributed as much as it has to our country—as much of its wealth, as much of its manpower, as much of its blood on foreign soil—and has made the terrific efforts that it has in education and other things. We in the State of Florida spend many millions of dollars a year on education. It is way out of proportion, and almost all Southern States are way out of proportion to what other States spend on education. We spend on education a greater proportion of our income. We make terrific efforts in social problems and we try very hard, but we just do not believe that this particular law will have the result of bringing about the high ideals which the President expected to bring about.

I am not saying that everybody in the North is a long hair. I am not saying that everybody in the North is unthinking and unrighteous

about the matter. Not at all. But I do think that the most vocal people in the North have something in common today. The most vocal people, the people who make the headlines, at least, are the ones that are talking about changing our form of government, suddenly or otherwise. They may not all be Communists, but they want to abandon the theory of local government, leaving me representing one-half million people, whereas the State legislature would have 25 or 30 representatives for that population.

In other words, it seems to me that these people are not necessarily designing to turn this over to the Communists, but they are certainly designing to change the theory of our Government. I, as you know, have a very liberal voting record since I have been here, and I certainly had in the State legislature, too. But I find the most intolerant people in Congress today are the professional liberals, mostly from the Northeast, people who either have no comprehension or no desire to see the point of view of other people.

The thing is already decided before it ever comes to them for decision. The Lesinski bill is a good example. No effort was made to study the Taft-Hartley bill as it existed before to see whether it was good or bad. It was just brought out on the floor of the House just as it was because it represented their view. There was no effort made to get the ideas of other people.

I appeared on the wage-and-hour legislation there. I think I had some very good suggested amendments to that wage-and-hour legislation. Although I was very courteously treated by the chairman of the committee and the others present, I had a feeling that I was talking to a brick wall.

So I think we need a little more understanding here in Congress as well as throughout the country.

Mr. POWELL. I just have one more statement, and then I shall ask the other gentlemen of the committee to ask questions.

I would like to ask one thing. In the north, for instance, and in other States where there is a mixture of races on street cars and in public schools, and so forth, the incidence of venereal disease and other diseases is lower than it is in the South where there is no mixing. I just wanted to pass that on.

Mr. BENNETT. I do not quite understand your point. My point is that people in the South are not particularly—may I say here, there are some of the things that I have said that I would very much hope the press would not use.

Mr. POWELL. That is, off the record?

Mr. BENNETT. Specifically, I hope that the question of high incidence of venereal disease among the colored people will not be put in the paper, because I am not trying to hurt anybody. I am trying to think this legislation through. This is not done for political reasons; it is done to try to help people. And I hope that the press will not release statements which will—you can paint me as a bigot, if you desire—but do not, for heaven's sake, hurt the colored people as a result of this or stir up a lot of feeling about it.

You said something about venereal disease there, and I was trying to point out the situation to you, the reasons that underlie the fact why people drink in different drinking fountains. There are a lot of people, particularly ladies in the South, that do not particularly like to drink

in a drinking fountain that a colored man has used just before, who has a very large chance of having syphilis. By the same token, if a man sits down who is very, very dirty, and with the chances of having a venereal disease, next to a white woman in the South on a bus, there is a feeling of worry about it. Naturally the people worry about it and are distraught.

But as colored people take care of their bodies more, as public health wipes out that high incidence of disease, as they become better educated, less self-conscious, and they work for the betterment of their own individual condition, and as we all try to help them to do it, there will be no problem about the Jim Crow law as far as public transportation is concerned, or drinking fountains, or anything of that kind at all in the South.

It will take its logical course. The customs have reasons underlying them. Underlying is not a feeling that a colored man is an inferior person. There are some people in the South that give vent to that, and that is the sort of thing that hits the newspapers. If a man makes a bigoted statement, it is the thing the people play up.

You would think that everybody was a Simon Legree in the South. And it is not true at all. The average person in the South loves his fellowman as much as persons do elsewhere. He acknowledges every American's right to full citizenship. These other things are based upon incidence of disease that this particular race has had, and as those problems are erased by education and by health services and other things, and in which the Government, incidentally, could render a very great service if it were desirous of doing it, the situation will improve. But the Federal Government has not shown itself desirous of helping in those things. It has not shown its desire to help in the construction of Negro hospitals, Negro wards in hospitals, and Negro schools, and I find a good deal of opposition to it.

They say, "Well, it allows segregation."

Are they going to accept the facts as they are? Why don't they ask the colored people whether they want segregation or not? I have yet to meet a colored man who has not told me he would prefer to have a Negro school, for instance. They desire that sort of thing. As far as travel on the bus is concerned, they travel all the time on airplanes, because the average colored man who travels on an airplane in the South is pretty clean, pretty careful, and not self-conscious, and he does not do things he should not do, and it will work out. There is no law in the State of Florida that establishes segregation in transportation.

Generally colored people sit by themselves on our transportation facilities. But there is no law which says they should. I think these things are well on their way to being ironed out and are being properly handled by the people themselves at present. Maybe I am too traditional, a little slow about doing these things, but I really believe if you consulted with the colored people of the South, you would find that the story I have told you could come just as well from colored lips as it comes from my own.

And again I do appeal to the press to be as kind as you can, because this has been an extemporaneous speech. I am saying it because I should say it. It is a hard thing for me to say, feeling as deeply as I do about trying to help colored people. It is hard for me to say anything that might be misconstrued to hurt them. That is the only thing.

I do not care how much you hurt me in the press, but do not hurt the colored people when you do it, and do not hurt all the South by trying to paint the South as out trying to hurt the colored people, because they are not. The kindest and truest friends that the colored man has in the United States today are the Southern white people. And you ask the colored people that, and they will tell you that is true.

Mr. POWELL. You know, you and I could go on like this for days.

Mr. BENNETT. Yes, sir.

Mr. POWELL. So for the benefit of those of us who are here for FEPC hearings, Mr. Perkins, have you any questions?

Mr. PERKINS. I have nothing.

Mr. POWELL. Mr. Burke?

Mr. BURKE. There is just one comment I would like to make. Those of us who are in favor of this legislation probably are motivated by much the same motive as you are in your opposition.

Mr. BENNETT. I am sure you are.

Mr. BURKE. I can quite agree with you as far as the propagandizing is concerned on these various issues. In fact, as a former labor leader, when I read some of the editorials and see some of the editorial cartoons, I wonder sometimes if the people in my district did not sort of kick me upstairs to get rid of me as a labor leader. It is nice kicking, if you can get it, though.

As I understand this type of legislation, all we are saying here is that the race of a person, the religion of a person, his national origin, shall be no bar to his employment. We have had this problem in the North, particularly in the factories in the great industrial area of the automobile and steel industries, where Negroes particularly—and years ago, as I pointed out when Mr. Hoffman was here testifying, the Irish and then the Polish that came along, and now the Negroes—where those people were kept from employment except in the most menial of tasks. And since the organization into unions, we have had a real problem, for instance, the upgrading problem, from the menial tasks such as factory cleaner or jobs of that type, or machine cleaner, into the jobs of operating the machines and the higher paid jobs. We have a lot of prejudice to overcome. I will say that in many, many instances it has been overcome, but I feel that we need this type of legislation to back up the educational process that has been going on for a long time.

Now, I may not fully appreciate the problem that you have in your district because of my experience in my own district. But as I said before, I quite agree with you that propagandizing has done a tremendous job, maybe on both of us.

Mr. POWELL. Thank you ever so much for coming.

Mr. BENNETT. Thank you, sir.

Mr. POWELL. The committee stands adjourned until 10 o'clock tomorrow morning, when Senator Humphrey and Senator Ives will testify.

(Whereupon, at 12:30 p. m., an adjournment was taken until the following day, Wednesday, May 11, 1949, at 10 a. m.)



FEDERAL FAIR EMPLOYMENT PRACTICE ACT

WEDNESDAY, MAY 11, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Adam C. Powell, Jr. (chairman), presiding.

Mr. POWELL. The committee will come to order.

I would like to ask Representative Bryson of South Carolina to make his statement, because he has an appointment at the Judiciary Committee.

STATEMENT OF HON. JOSEPH R. BRYSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. BRYSON. Mr. Chairman and gentlemen of the committee, I am very grateful to you for the privilege of appearing before your committee and being permitted to make a statement in opposition to the pending measure. In view of an extremely important session of the Judiciary Committee at this moment, I ask the privilege to extend my remarks by filing a statement.

Mr. POWELL. Without objection, it is so ordered.

(The statement referred to is as follows:)

Mr. Chairman and gentlemen of the committee, I am grateful for this privilege to appear before you in opposition to the proposed legislation.

The enactment of FEPC legislation alone would do more to create social and industrial disunity than all the vicious propaganda of communism.

It is apparent to all but those who refuse to see, that the FEPC is nothing but a major objective of the Communist Party. It is designed to destroy our republican form of government by regimenting the Nation's business and industry.

What is in FEPC that makes it so dangerous? The FEPC would provide severe punishment for employers judged to be guilty of practicing racial discrimination in the hiring and promotion of workers. It proposes to set up a permanent commission to investigate and determine whether an employer is guilty of race prejudice in the conduct of his business.

We had a brief but bitter taste of FEPC during the war, when it functioned on a temporary basis. FEPC has made little progress in any State. In the State of New York, where there is a considerable radical minority, there is a State FEPC. Pressure groups have managed to force similar measures through the legislatures of New Jersey and Connecticut. In no instance in which a State has adopted FEPC have the people been given an opportunity to approve or disapprove. In every case it has been adopted by the legislature acting under pressure. In 1946 the people of California had an opportunity to express their views on FEPC. In spite of the fact that there is a large radical and socialistic minority in California, the FEPC proposal was turned down by clear majorities in every county in the State. The people of the United States recognize FEPC

for just what it is—a Communist-inspired conspiracy to undermine American unity.

The FEPC is not an assault on the South alone. It is equally dangerous to all industry in all parts of the country. FEPC operation at the present time in the State of New York is working a serious hardship on industry in that State, inasmuch as it takes personnel control in a business or industry out of the hands of the owners and places that control in the hands of a bureaucratic commission, which may dictate policies of hiring and firing. In the State of New York it is now illegal to carry on personnel practices which have always been regarded as fundamental to sound business. To indicate how New York's FEPC plays havoc with the hiring procedure alone, let me cite a few examples. It is unlawful:

"To make inquiry into the original name of the applicant for employment, whose name has been changed by court proceedings or otherwise."

It is unlawful:

"To make inquiry into the birthplace of the applicant for employment, the birthplace of the parents, spouse, or other close relative."

It is unlawful to require an applicant for employment to produce a birth certificate.

It is unlawful to inquire "into the religious denomination of an applicant for employment, his religious affiliations, his church, parish pastor, or religious holidays observed."

An employer cannot even ask whether an applicant for employment is an atheist.

It is unlawful to inquire about the race or color of an applicant for employment. It is unlawful to require an applicant to submit a photograph with his application for employment.

These are just a few of the tyrannical restrictions that the FEPC places on a business or industry. It denies a businessman the right to say what kind of people will work in his organization. If there is a greater imposition on personal liberty than this, it is difficult to imagine what it could be.

It requires no great imagination to see what would be the result if this kind of legislation were foisted upon the people of the United States. It would open wide the doors of every business in the Nation to those agitators who are skillful in fomenting racial unrest. Every industry, every business in the Nation which did not employ certain minority racial groups would be subject to severe penalties. Every industry, every business in the Nation could be required to employ unqualified, incompetent persons merely to avoid any stigma of "prejudice" or "discrimination." Every member of every minority group could bring charges, justified or not, against his employer or against a prospective employer, seeking to demonstrate that employment or a coveted promotion was denied him on the basis of his race, creed, or color. With enough Communist agitators in the field, life for a southern businessman would be one continual round of lawsuits and court appearances, a perpetual inquisition conducted by bureaucratic FEPC investigators.

The fact of innocence would be no defense, for an employer could be held responsible for the intemperances and prejudices of his employees, if they happen to resent the employment of a member of a particular race or religious group. There are many industries in which employers have no jurisdiction over the choice of employees, inasmuch as the union dictates who shall be hired. Most unions have written or unwritten regulations limiting their membership to members of the white race. In such a case, if an employer fails to hire a Negro he violates the FEPC laws; if he does hire the Negro he violates his union contract. No matter what happens, he is bound to lose.

This is the kind of inequity that we are asked to sanctify by Federal law. To do so is to fly in the face of all history, which teaches that prejudice cannot be overcome by coercion, that the only real answer to discrimination is better racial understanding through the forces of religion and education.

This is a critical period of national and world history. It is no time to allow our legislative machinery to become stalled by FEPC debate. It is no time to permit Communist agitators to disrupt our national unity by spreading distrust and misunderstanding among racial and minority groups. It is no time for virtue to make concessions to vice.

Mr. POWELL. Mr. Norman Thomas.

Mr. Thomas has an appointment with the Senate Foreign Affairs Committee to testify at 10:30. He was originally scheduled to testify last week, but because of the Taft-Hartley debate, we could not hold

the hearings at that time. So we will give him the courtesy of the first place this morning.

Mr. THOMAS.

Mr. THOMAS. Thank you very much, Mr. Chairman.

TESTIMONY OF NORMAN THOMAS, REPRESENTING THE SOCIALIST PARTY

Mr. THOMAS. Long advocacy of Federal fair employment practice legislation has made Congress and the public reasonably familiar with the sort of legislation desired by its supporters. Legislation should declare it an unfair practice, hurtful to American democracy, for employers to discriminate in employment on grounds of race, national origin, or religion. Such prohibition of discrimination in no way interferes with the right to judge between competence and incompetence for the specific job.

Enforcement should be along the lines of the New York State law under which a commission would first try to use good offices to settle a disputed case but should have power to go into court to get necessary judicial order with penalties attached for disobedience. The law, in my judgment, should apply only to employers of 50 or more, as is the case in the bill you have introduced, Mr. Chairman.

Below that number, shops are likely to have a somewhat social or even a family character in which personal relations are more or less legitimately important to a degree that they are not in big businesses or industries. It is in small shops or businesses that there might well develop the greatest difficulties in enforcing the law, difficulties which would tend to discredit the law as a whole.

At this point, I want to say that I think it is a very misleading parallel that opponents of this measure make when they say that an employer has a right to employ whom he pleases. They are thinking in terms of the very simple relation of a man to a hired man that he takes on the farm, or somewhere. When you are dealing with large industries, there is no such simple relation; there is no choice on personal grounds by an employer of employees. It is a social transaction and has to be governed accordingly. In a sense, the employer is a steward of society in that connection.

While all discrimination unrelated to competence should be forbidden, it is apparent that there would be no reason for Federal legislation except for notorious, large-scale discrimination not only by employers, but unfortunately also by some labor unions, against the employment of Negroes, workers of Mexican origin, and possibly Japanese-Americans. It is from this angle that I shall make my argument.

At the outset, I want to make it clear that either by some provision of this law or still better of the new labor law to be enacted, racial discrimination by labor unions should be effectively forbidden. I suggest that it could be done by denying recognition to any union guilty of such discrimination as a bargaining agency in negotiating collective agreements until the discrimination shall be removed.

That, Mr. Chairman, is a personal suggestion. The working out of details is important. But I do stress the idea that unions also, as well as employers, have to be prevented from racial discrimination. Many unions have made a very fine record, but some have not.

It is emphatically the business of the Federal Government, which for social purposes, greatly has to extend its power over interstate commerce to act affirmatively in protection of equality of economic rights among workers, irrespective of race or color. Of all denials of civil rights in America today, economic discrimination is the most basic and far-reaching in its consequences. Let there be economic fair play and there will be a strong tendency toward a more or less automatic ending of other discriminations.

I do not mean that I am not in favor of other legislation, but I believe that of all the bills this ought to have priority because of its far-reaching importance.

The strength of race feeling in America is largely due to the fact that for so many generations the ancestors of our colored citizens were slaves and their color bore the stigma of slavery's degradation. Later it served the interests of many employers and the employer groups to pay some workers by the satisfaction of preferential social treatment because they were white and thus to keep the wage scales down.

One of the most ridiculous and humiliating things I can imagine is what I have actually seen in certain manufacturing centers in the South where there is a special gate through which colored workers have to enter, although inside they have to participate with the others. It is a monument to stupidity as well as prejudice.

Many of the social conditions among Negroes, generally attributed to their race or color, spring directly and indirectly from the fact that so largely they are underprivileged in respect to economic status and opportunity. So direct and serious are the consequences of this that, most emphatically, it is the business of the Federal Government to act along the lines of this proposed FEPC legislation.

It is absurd to say that the elementary rights of American citizens are affairs merely of the States. Too often in America, State rights have been a pretext for workers' wrongs.

Mr. POWELL. That is very true.

Mr. THOMAS. We white Americans who have preached the doctrine of collective guilt to Germans cannot escape it in regard to our colored fellow citizens. The most shameful chapter in human history by reason of its long continued horror is the story of the African slave trade. Slaves were first brought to our shores 1 year before the landing of the Pilgrim Fathers. The slave trade was legal until 1808 and flourished illegally almost to the Civil War.

Meanwhile in America slaves were bred on stud farms and were bought and sold like cattle until their political emancipation which, in our country alone of western nations, was brought about by a terrible war. When that war ended, the Federal Government made even less adequate arrangement to give its new free citizens economic opportunity than did the czar of Russia when, at about the same time, he freed the Russian serfs. In view of this fact, the progress of Negroes is genuinely remarkable. FEPC legislation would, among other things, be a measure of atonement for the long continued wrong we have done our fellow men.

It would also become an integral part of our effective foreign policy in the eyes of the peoples of the world. It would do much to vindicate our American leadership for true democracy and individual right. In the long run it would, I think, do more for our effective security than

the North Atlantic Pact. I am, of course, not suggesting its consideration as an alternative to the pact.

The objection that FEPC legislation would run so counter to public feeling in many areas that it would become a dead letter, or by its enforcement a source of social unrest, is so grossly exaggerated as to be invalid. No government can legislate virtue or good will but governments can, and continually do, act constructively to prevent or punish crime and social injustice. Wisely administered, FEPC legislation can have genuine educative value on public opinion. That was proved by the very considerable success of fair employment action under Presidential order during the war and by the high degree of success achieved in New York State under the New York law. At this point I speak as an interested citizen without detailed knowledge of the New York law, which I think can be had from those concerned with its administration.

One reason for Government action now is that the idea of fair employment practices should be established before a possible deepening of recession should aggravate competition for an inadequate supply of jobs. New York State was fortunate in starting its fair employment practices during a period of relatively full employment. The employment situation is still good enough to make this new legislation easier of enforcement than in times of deep depression and bitter job competition.

I urge, therefore, prompt action by the House. If then a good bill is killed by filibuster in the Senate, we shall know exactly where to fix the responsibility for arrogant minority government.

Thank you.

Mr. POWELL. Thank you, Mr. Thomas.

I know you have to get over to the Senate.

Mr. THOMAS. I have time to answer any questions, of course.

Mr. POWELL. I just want to emphasize through you, if possible, what is rapidly creeping into a discussion of fair employment legislation, and that is the international aspect. Yesterday Representative Burnside, from West Virginia, pointed out how during the war when he was active in propaganda work, people of the Far East were continually questioning our Government on the vast difference between our principles and our practices, so much so that Dean Acheson has indicated that he will either come in person or will write to this committee and suggest strongly the passage of this legislation, from an international point of view.

Mr. THOMAS. I hope very much he will come personally. It is very serious. I have not been abroad, but I frequently see a good many people who come to the UN, and otherwise, and from them all it is the same story. Naturally, what we do wrong is very bad and is easily exaggerated. So we even hear it in worse form than it is from abroad.

I had this experience. I was speaking in a small meeting, and I said in this small meeting that in my judgment it is probable that more was known perhaps in a distorted form in remote hamlets of Asia and Africa concerning the famous report of the NAACP on discrimination in America made to the United Nations—more was known abroad than here.

Mr. POWELL. That is right.

Mr. THOMAS. One of the people present at that small meeting was our friend, Dr. John Haynes Holmes, who had just returned from a

lecture tour which he had been invited to take by the Government of India. He said that what I said was exactly true, that he had been amazed and disquieted by the kind of questions he had been asked and by the extent of knowledge, often exaggerated knowledge, in India.

I think one of our great mistakes is to think of the cold war primarily in military terms. In the last analysis it will be won or lost by its appeal to the heart and conscience of man. Now, I am 1,000 percent a supporter of American democracy as against Communist totalitarianism, but just because we profess so much, we are more vulnerable, and your Communists are in a wonderful position to exploit it, and they do. Even with friends from Europe who are on our side, I keep hearing these inquiries, and it will remain so until you act.

Mr. POWELL. Mr. Burke?

Mr. BURKE. I am generally in agreement with your statement all the way through. There was one statement that I would like to explore just very briefly, and that was in regard to the possible requirement in the labor-relations law of nondiscriminatory membership in labor unions. I would like to say that in our deliberations on the labor-relations law we found that the philosophy of Taft-Hartley was somewhat to clutter up the labor-relations law with collateral provisions that had nothing to do directly with labor relations, and those collateral provisions were directed toward the inner organizational affairs and structures of the unions.

We felt that even though we were in favor of fair employment practices generally, such a provision had no place in the law because it was collateral and it was carrying through the same philosophy that the Taft-Hartley Act was founded on.

Mr. THOMAS. May I point out that I have been from the beginning an opponent of the Taft-Hartley Act? So I am not defending the Taft-Hartley Act, and I do not particularly like its provisions at this point. May I also make it clear that I speak only for myself? In what I say about the general principles I am, of course, speaking for the Socialist Party. But in this I am speaking for myself, because the party has not acted. But very respectfully, I beg leave to dissent. I do not think you clutter up a labor law or that you legislate for the internal composition of a union when you say to labor what you try to say to bosses; namely, there is to be no discrimination.

I am not proposing that Government write constitutions for labor unions. I am proposing that a Negro or Japanese-American or Mexican-American who found that his right to equitable and equal treatment in employment was denied not primarily by the employer, but by the rules or practices such as are in effect in the railroad brotherhoods, that that man, not the boss, not any boss, but the aggrieved man, would have the right to make a complaint. And I am suggesting that the logical thing is simply this, that if the complaint is established by the records, then until the situation is remedied, until that discrimination is removed, and no more, that union should not have the immense privileges that go with the recognition of it as a collective-bargaining agent.

I do not think there is one standard for employers and another for labor unions at this point. I have been through some bitter years, and for many years I tried to condone a lot of thing done in Russia as well, different, somehow, if they offended against judgment. Anyway, they were steps on the road. I know now that that was a mistake.

I am not comparing any American labor unions to the Communist Party. But I am insisting that in my personal experience, I have known some very serious cases where it has been the union and not the employer who was responsible for discrimination, and I think it is the business of a democracy to take cognizance of the fact.

If you or any other gentleman can find a better way to deal with it, most emphatically, I am with you. But I want to be on record personally—I am speaking only for myself—in objecting to any notion that what is sauce for the goose is not sauce for the gander. It is discrimination we are against, and that discrimination as applied, for instance, in the railroad unions, so that no member of the Brotherhood of Pullman Porters, no matter how competent and efficient—and by my personal experience I know how competent and efficient some of them are—can even hope to rise in the scale of employment. And that hope is a vital privilege of every American, and it is denied in this case by union procedures, very largely, and to that I am and will be opposed, and I think it is your business to take cognizance of it.

Mr. BURKE. Is it not better, though, to do it under the provisions of this bill—

Mr. THOMAS. If you can do it effectively. I am not going to be dogmatic. If you do it under your bill, this is your bill. Go ahead and do it. I think as a matter of justice and principle, it should also be part of a labor act. But that is my opinion. If you do it, all right. But I am not impressed, I am sorry to say, by the argument that you clutter things up when you enact justice.

It is too much like the argument that employers make, that you clutter up industrial procedures when you act.

Mr. BURKE. Certainly, the Taft-Hartley Act had as one of its devices for destroying unions the inclusion of collateral provisions that had nothing directly to do with labor relations as such.

Mr. THOMAS. This has directly to do with labor relations. No one is entitled, in my judgment, to the enormous privilege of official representation, no union, which is guilty of discrimination. It is a principle of equity that you come into court with clean hands, it seems to me. I again repeat that if you can do it better in this bill, do it in this bill. But what I dislike is the position that some of my friends among labor people take, by one device or another, to rationalize differential treatment, so that they are exempt from requirements of justice. I think the chairman will agree with me, from experience.

I remember, Mr. Chairman, once expressing in Harlem this view to a forum. This was years ago, before labor unions were so well established and before labor-union practice had improved so greatly.

The most bitter anti-labor speeches I ever heard, Mr. Chairman, were in a forum in the YMCA at Harlem, and they were not by white-collar people. They were by people who had been cut out of employment. And I think it is time to face that fact honestly for the glory of our democracy. Once more, let me say I rejoice in the real progress made by labor unions at this point. After all, this is not the Taft-Hartley Act to which I am opposed. This is this.

Mr. BURKE. I want you to understand that I am not in opposition to your objective at all, and that I am not trying to rationalize.

Mr. THOMAS. I understand. I do not think you are, but I know plenty of people who are, unfortunately.

Mr. BURKE. That is right. But a requirement, for instance, that unions file financial reports and all those things that were in the Taft-Hartley Act, I believe was just as much a collateral provision as the nondiscriminatory provision.

Mr. THOMAS. I am not going to argue the Taft-Hartley law.

Mr. BURKE. I would much prefer to have it done under this bill than to include it and embrace the philosophy of Taft-Hartley.

Mr. THOMAS. People sometimes do good things from wrong motives, even in Congress. And the question of just how discrimination is going to be prevented and the reasons why are of no consequence. I have no doubt that there are Republicans who talk against discrimination for the purpose of the political record. I have heard them do it. I know the history of the filibuster in the Senate. But I am still against discrimination; and if your way is better than mine, more power to it. But it has to have teeth, this prevention of discrimination, and the way that seems to me most logically to give teeth is not by fines of this officer or that, but by a plain rule which everybody can appreciate—that a union to be recognized as a collective-bargaining agent shall not discriminate.

Mr. BREHM. Will not the gentleman agree with me that the Democrats are also guilty of the same sin?

Mr. THOMAS. You know that I am one of the most nonpartisan people in America on the subject of Republicans and Democrats.

Mr. POWELL. Mr. Brehm, do you have any questions other than that?

Mr. BREHM. No.

Mr. THOMAS. You might even say I was bipartisan in that respect, like our foreign policy.

Mr. BREHM. You just used the word "Republican." That is what made me ask my question.

Mr. THOMAS. Well, because I was thinking of that Republican performance. There were some Democrats in it, too. But there were some Republicans over there in the Senate. You probably read about it.

Mr. POWELL. Thank you very much, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman and gentlemen.

Mr. POWELL. Senator Ives.

TESTIMONY OF HON. IRVING M. IVES, A UNITED STATES SENATOR FROM THE STATE OF NEW YORK

Senator IVES. Mr. Chairman and members of the committee, I appreciate very much this opportunity to appear before you on this very vital question.

The failure of our Nation to remove discrimination in employment constitutes the gravest anomaly in our American tradition. No man, because of his race, religion, color, national origin, or ancestry, should be deprived of the right to earn the living to which he is entitled by character and ability. Discrimination in employment is contrary to all that is fundamental in our American creed. Yet year after year discriminatory practices continue. Persons who consider themselves true Americans in every way—and I might add whose loyalty can never be in doubt—continue to handicap other Americans by denying to them full opportunity of employment.

Because I am deeply concerned about the effect of discrimination in employment, I am pleased to be here this morning to testify on legislation which will further assure to all the citizens of our Nation the fundamental guaranties of the Constitution of the United States. We who are members of the Congress may differ among ourselves over how to meet and overcome this American dilemma, but we must recognize that it has to be met and that it has to be overcome.

I myself firmly believe that only through the legislative process will it be possible to initiate a program of sufficient strength to eradicate discrimination in employment. For that reason I labored in the State of New York for the passage of the New York State law against discrimination in employment, which has been in operation for almost 4 years.

The New York law and those laws of a half dozen other States which are similar to it operate largely through educational processes—with legal compulsion at a minimum.

Emphasis is placed upon the processes of mediation, conciliation, conference, and persuasion. Public-spirited citizens in the local communities, moreover, are enlisted to engage in a broad, informal, educational program, through so-called advisory or conciliation councils, for the purpose of having the spirit, as well as the letter of the law accepted and observed.

The successful operation of the New York State law has so convinced me of the merits of this type of approach to the eradication of discrimination in employment that I have sponsored in the Eightieth Congress and in the Eighty-first Congress bills which are patterned after it and would apply the plan at the Federal level.

There are a few differences between H. R. 4453, which is, I understand, the bill you are immediately considering, and Senate bill 174, of which I am a sponsor. I might add these differences are not very vital. For this reason, I shall not direct my remarks to the specific provisions of H. R. 4453.

I desire, however, most heartily to endorse this type of legislation. Moreover, I endorse specifically H. R. 4453 as being based on the principles I have cited.

I understand that others will appear before your committee to discuss various phases and provisions of this particular bill and to describe their experiences in States where laws of this kind are in operation. I am glad that the Congress can profit by these experiences. For my part, I am convinced of the need for legislation of this nature at the national level.

The United States of America furnishes the last bulwark for freedom in the world. Without equality of opportunity, a basic privilege of freedom is destroyed. Discrimination in employment because of race, religion, color, national origin, or ancestry denies equality of opportunity and makes a mockery of our pious boasting about our American way of life. There is no room in America for second-class citizenship; either we are united in ideals and purpose and example, or ours is a union in name only, torn by resentment and dissension among heterogeneous minorities in conflict with whatever majority may be in the ascendancy at the moment. To those of us who constitute the immediate over-all majority is given the task of translating our lofty ideals and principles into a living reality.

Mr. POWELL. Thank you.

Senator IVES. If the committee has any questions, I shall be glad to endeavor to answer them.

Mr. POWELL. I want to thank you for coming over to our hearings. I know you are busy.

I was interested in what your views on this specific problem would be, because for me you are the father of FEPC legislation.

Senator IVES. No. There are a great many fathers of antidiscrimination legislation.

Mr. POWELL. The first actual FEPC law placed on the statute books anywhere in the United States was the Ives bill.

Senator IVES. I think that is probably correct.

Mr. POWELL. Whether you own it or not, you are the father of the child.

Senator IVES. A great many of us contributed to that bill, so I do not take credit for it.

Mr. POWELL. I am interested in the fact that you specifically endorsed this bill.

Senator IVES. This bill is substantially the same as that which I have introduced in the Senate twice. And as I pointed out in my preliminary remarks, the differences are very slight.

Mr. POWELL. What do you think can be done in the Senate to get the hearings rolling on this?

Senator IVES. In the Senate?

Mr. POWELL. Yes. It is in your committee, is it not?

Senator IVES. No. I am not on the Labor and Public Welfare Committee any longer, as you may know.

Mr. POWELL. We lost a good ally.

Senator IVES. Pardon?

Mr. POWELL. We lost a good ally.

Senator IVES. I appreciate that, coming from a good Democrat.

Mr. POWELL. Thank you for saying that I am a good one.

What do you think can be done in the Senate to get this rolling?

Senator IVES. I think if you want my ideas for the use of the House, also, the thing to do is to have those people who are interested in this type of legislation decide what course they want to take in the advancement of the civil-rights program, and having made that decision, to decide the order in which the bills should be advanced and promoted. I think one of the great drawbacks that the proponents of civil rights have run into in the past is the rather heterogeneous approach that they have made, the almost haphazard approach that they have made, in espousing this legislation. You would find one group that would be advocating FEPC legislation, and another group would be advocating antipoll tax legislation, and another group would be advocating antilynching legislation, all simultaneously but never concentrating at any one spot, and therefore separating and scattering their effectiveness to a considerable extent. I think that those who may be in charge of the civil-rights program in the Congress should decide among themselves the order in which these particular measures should be presented, and, having made that decision, then the people who are behind these programs—and there are a great many in this country, in nearly all types of groups—can concentrate their efforts on one measure at a time,

thereby providing the Congress with more effective support than would otherwise be possible.

You asked me about the Senate situation. I think that condition I have indicated applies there, and I think that matter should be determined before any action in reporting out any bill in either House is taken.

Mr. POWELL. Here in the House, I am the coauthor of every one of the civil-rights proposals. And for me, this bill should come first.

Senator Ives. Doesn't that make sense to you?

Mr. POWELL. Yes, indeed. And this bill should come first.

Senator Ives. Beyond question, this bill is the vital bill in the whole program. If this question is ever settled satisfactorily—and I think some day it will be—the rest of the problem is practically solved.

Mr. POWELL. And the reason why I believe it should come first is because, Senator, this is the only civil-rights bill before us that ever was law during the wartime period, and it was in practice for a period of time. You can point to it and say, "This is what has happened."

Senator Ives. You can go even further. You have the several States to which I referred, particularly New York, New Jersey, Connecticut, and Massachusetts, and now there are some more that have been added, Washington and Oregon, and I think one or two others, whose statutes are very similar to the New York statute and very similar to this.

You have the experience in those States, particularly in New York. I will never forget the experience I had as chairman of the temporary commission which engineered this undertaking. I did not think, to start with, that it could be done.

Mr. POWELL. Neither did I.

Senator Ives. The odds were all against us. There were 23 of us, 8 members of the New York Legislature, and 15 picked at large. I do not know the political complexion of the 15 picked at large, but I will tell you this, that I insisted that the 8 members of the legislature be divided equally between the Democrats and the Republicans; so that there were 4 of each. And I insisted that on every decision that we made, the eight of us should be united. I think that had something to do with it.

Mr. POWELL. Yes.

Senator Ives. But you want to bear in mind that when we undertook this task, we could operate only on faith. We believed we were right, but we had no proof that it could be done. And that was some selling job we had to undertake. Now you have the record behind you.

Mr. POWELL. Right. Mr. Perkins?

Mr. PERKINS. No questions.

Mr. POWELL. Mr. Burke?

Mr. BURKE. I am interested in how it came about in New York and the general results. Of course, not being from New York, I only have hearsay and newspaper statements. As I understand it, much of the same kind of opposition as appears in opposition here and much the same fears were expressed before the New York Act was enacted as are being expressed now on the national level.

Senator Ives. They were virtually identical, and the opposition was very, very similar.

Mr. BURKE. As far as practicality is concerned, once the act was in effect, those fears that were expressed prior to its enactment were certainly not realized; that is, the disruption, and so on, that they talked about before the enactment of the act, just did not come about?

Senator IVES. Of course, as you gentlemen know, the opposition concentrates on the punitive provisions of the bill, and everybody blew those up to be the biggest balloon possible, with idea that that is where the force would be placed, and that is where the effort would be directed, along that line.

I happen to be one that is convinced that if you have to enforce this kind of undertaking by punitive measures, by legal compulsion, it is going to fail. Unless you can convince the rank and file of people that it is inherently right, which it is, and get them to cooperate in backing it up, your undertaking cannot succeed. And that is why the New York statute, and that is why this present bill, contain such broad provisions for this educational approach, as we term it. It is educational, in a broad sense.

First, I think, Mr. Chairman, that your bill provides for mandatory mediation, conciliation, conferences, and persuasion. That is very essential, that part of it. And you also provide for these conciliation councils to be set up in the various communities, big and little, in the whole area of the United States, by which through the voluntary approach you enlist the support of citizens in those communities. That is the way it is done.

Naturally, you have to have compulsion here or nobody will pay any attention to it. But let me point out this, that if any undertaking of this kind is ever made and the emphasis is placed on that aspect of it, the rest of it will be ignored obviously and the whole business will crash in defeat.

Mr. BURKE. Then the next result was that the fears expressed were certainly not realized?

Senator IVES. There was no ground for them whatever. As far as I know in the State of New York, no case has ever been brought into court. I do not think there has ever been—well, I do not think they have ever taken any legal action of any kind regarding them. I think everything has been settled by the first process, mediation, conciliation, conference, and persuasion.

Mr. BURKE. Mr. Howell of New Jersey testified yesterday that they have had the same experience in the State of New Jersey.

Senator IVES. They paralleled New York, you know, in this business. And then Massachusetts came along, and theirs is a little broader than ours, and then Connecticut, finally.

Mr. BURKE. That is all.

Mr. POWELL. Mr. Brehm?

Mr. BREHM. Senator Ives, I am so much in agreement with your objective that there are not many questions.

Senator IVES. Do not get me wrong. I am no visionary. I went at this thing when I undertook it back in 1944 with my fingers crossed. As I indicated, I doubted that it could be done, but I felt that it had to be done.

Mr. BREHM. Perhaps I am a visionary myself.

Senator IVES. I am not a visionary.

Mr. BREHM. But I have always had the feeling of brotherly love in my heart. In other words, the point I want to make is that specifically

in my district I have no problem of discrimination that I know of. It has never been brought to my attention.

Now, yesterday some of the members from the South indicated that this legislation was directed primarily toward the South.

Senator Ives. Oh, no, that is not it at all.

Mr. BREHM. Just a minute until I finish. I do not agree with that statement, either. But I am leading up to my question.

Since I know of no specific cases of discrimination in my own district, would it not be helpful if an instance of discrimination were cited and were made public, because they have never come to my attention? I do not doubt that they exist. But where?

In other words, we talk about discrimination, and I am all in favor of this type of legislation. Do not misunderstand me for a moment. But would it not be helpful to the cause if it were brought out where discrimination has occurred; that is, the necessity for this legislation? That is the point I am trying to make.

Senator Ives. Of course, you are right in that. I want to add to my reply that one of the first things undertaken in New York State at the very outset was a thorough check of the whole State in this area where discrimination might occur, to find out how much there was and what was and how fast it might be tackled. Fortunately, that commission of mine did not have to do that job, because under the New York State War Council, which has been in existence during a period of the war, a committee had been set up to look after this question of discrimination in employment and to try to eliminate it in line with the Federal pattern which had been established under the FEPC provisions.

This committee had obtained all that information which was available to us, and we probably saved ourselves one solid year because of that information which we had.

Mr. BREHM. Then that would be available to this committee; is that right? I would like to have that.

Senator Ives. I do not know how valuable it would be now. That was information gathered back in 1943 and 1944. That is pretty old information.

Mr. BREHM. Does the gentleman know of any up-to-date information? In other words, the point I am trying to get across is this. I do not know whether I am making myself clear or not. I go out, for instance, and I talk about discrimination. My opponent, let us say, will ask the question, "Be specific. What do you know? Do you know of any?"

Well, I do not know of a case in my particular congressional district. Do you see what I mean?

Senator Ives. Yes.

Mr. BREHM. So I am talking of a great ideology with which I am 100 percent in agreement, you see. I want something with which to back up my arguments.

Senator Ives. You are going to have before you, Representative—I believe you had somebody before you representing our New York set-up, did you not?

Mr. BURKE. Yes.

Senator Ives. I believe you are going to have several representing the New York set-up against discrimination. And I believe they can give you considerable information, as much as you may desire, not

in the hearing, because it would take a great deal of time. But they can get it for you in line with the information you want.

Mr. BREHM. The thing that prompted this question was, during the Taft-Hartley hearings last year in the Eightieth Congress, certain instances were pointed out where this particular thing had occurred, and those who were opposing any type of labor legislation said, "Well, those are just isolated cases. They just happened here and there."

Now, the opponents of this legislation will point out identically the same thing unless we have information to back it up and say, "It is not an isolated instance at all; it is a universal practice. And that is why this legislation is indicated."

That is the point I am making.

Senator IVES. I do not know how many charges of unfair labor practices in the matter of discrimination have been brought before the New York commission to date. But I suspect you may have that figure yourself. They run to 500 or 600, at least.

Mr. POWELL. I think it is 333.

Senator IVES. There might be. But I think they probably had more presented to them than that.

Out of that group, you can get quite a sizeable group to provide the information you are seeking.

Mr. BREHM. Thank you.

Mr. POWELL. I would like to say to my colleague that on Tuesday of next week we are going to have the chairmen of four State commissions, New York, New Jersey, Connecticut, and Massachusetts, and at that time they will have these facts at their finger tips. I want our colleagues from the South to realize that this legislation is not directed against them. The proof that it is not directed against them is the fact that we enacted it in the North, and we would not have enacted it in the North if it had not been a situation we wanted to solve.

Senator IVES. That is very true.

There is one thing that I want to emphasize before I leave you. I not not want to consume any more time than is necessary. But that is this: You are going to hear many charges made about the New York law not working. I believe charges have been made on the floor of the House to that effect. Well, I would like to see all those charges sometime and have them analyzed, because I think they were very easily answered. But I want to point this out as an over-all reply, that the very fact that the people who are most in favor of this legislation, most in favor of the law in New York State, are pretty thoroughly satisfied with the way it is working, should be ample answer to any charge of that kind.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. Senator, there are people who have expressed opposition to the Federal law on the ground that they feel the problem should be handled at the State level. I understand that you feel that a Federal law as advocated by the various people who have introduced bills on this matter is the preferable way of handling this discrimination problem.

Senator IVES. A Federal statute of the moderate type which is proposed in this instance, properly administered. And the success or failure of it rests not primarily on the terms of the statute, on the substance of the statute, but primarily on the type of administrators

you get. A Federal law of that nature can go a long way in clearing up this whole question in this country and in solving it. And it can do a far more effective job than can be done by our waiting for the States one by one to go ahead with it.

Of course, if the States gradually take it up themselves, that will solve it. But it may be a period of 25 years before they get through doing it. Of course, it may be a period of 25 years, anyway. This is a matter of evolution. You cannot press it. But certainly a Federal statute would be very, very helpful under the proper type of administration.

Mr. NIXON. The reason why I asked that question was that you have indicated today, and other representatives who have appeared from Northern States generally have indicated that a law of this type would be and could be effectively administered in their States. On the other hand, we had before us yesterday two Representatives from Southern States, Mr. Bennett and Mr. Battle, from Florida and Alabama, respectively. They both indicated, and I think they indicated in all honesty and sincerity, that if such a law were passed, they seriously doubted that it would either be effective in accomplishing its purpose or could be enforced.

I wonder if you have a comment on that point.

Senator IVES. I certainly have. In the first place, they are undoubtedly sincere in their attitude. Undoubtedly there is a predominant feeling in that section of the country that anything of this type would be a hindrance rather than a help in resolving the problem. The reason for that attitude, I think, is because inevitably, on account of the situation with which they are immediately confronted, they look at the penalty provisions, the legal compulsion of the statute, and they say, "This is the way it will be done, in all probability."

Well, quite obviously if you were to go into the South or into any other section—the South is not the only place where there is discrimination, not by a long shot—and try to clamp down with the force of legal compulsion, you would meet a resistance which as I previously indicated would defeat utterly your purpose.

Now, this bill is drafted in such a way that that kind of condition can be avoided. The mandatory provision requiring conference, conciliation, persuasion, and mediation in the first instance is not restricted to any given period of time. So many of them make the mistake that it has to be done in 30 days; that is all that should be granted for that, or 60 days, or 90 days. That is not the idea at all. It may take years with that kind of effort. Still you are keeping within the spirit and within the letter of the law, and as long as you are constantly making an effort in that direction, you are accomplishing the purpose of the act in carrying out the idea that you have and the general over-all objectives.

Mr. NIXON. You feel then, that this proposed bill is flexible enough so that with proper administration it could take care of the different problems that you face in different States?

Senator IVES. I certainly do.

Mr. NIXON. That is all.

Mr. POWELL. Before our hearings come to a close, the head of the Southern Regional Council, Mr. Williams, is going to come before us, and he is going to bring the whole question before us himself, and discuss how it can be done with a minimum of tension.

Senator IVES. May I ask a question of you, Mr. Chairman? Are you going to have Charles Tuttle down here?

Mr. POWELL. Charles Tuttle will be the next witness on Tuesday for the State commissions.

Senator IVES. With all due respect to everybody else, he is the most valuable witness that you will be able to get before you, because he has had direct experience for many years in this field; he is an eminent lawyer. He largely drafted—in fact, he completely drafted—the New York statute—and he is the one who has done more in drafting the bill you have and the bill I have than any such other person.

Mr. POWELL. Including overselves.

Senator IVES. That is right.

Mr. POWELL. Thank you, Senator.

Mr. SMITH, do you have any questions?

Mr. SMITH. No questions.

Senator IVES. Thank you very much.

Mr. POWELL. Representative Douglas?

TESTIMONY OF HON. HELEN GAHAGAN DOUGLAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. DOUGLAS. Mr. Chairman, I thank you and the members of this committee for this opportunity to testify in favor of FEPC legislation. Although my statement this morning is addressed to H. R. 792, the bill that I introduced on FEPC, I want at the outset to endorse the bill that the chairman has introduced, which I understand is the administration bill, and from the short time that I have had to study it, I see no major differences between the two pieces of legislation.

I believe that the statement of policy of H. R. 4453 is better than the statement of policy in my own and the Ives bill. I believe that the commissioners receive a higher salary, which I think is probably sound. Then there is the provision that the Federal commission may turn over to a State FEPC commission its authority in certain instances—that is, if the State observes the same rules and regulations. I think that is sound.

The direct objective of H. R. 792 and H. R. 4453 is to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry. The civil-rights objective—protection of the wage earner in his basic right to seek a livelihood without arbitrary discrimination—has more than ample justification. But I would contend that H. R. 792 and H. R. 4453 have a larger objective and an even wider justification.

These bills provide for the common defense in an era of critical world tensions. They are designed to strengthen the conduct of American diplomacy by removing a blot on America's leadership in world affairs. They are designed to promote America's economic self-interest by raising living standards and by increasing market opportunities. They are designed to strengthen our free enterprise system by strengthening the most basic enterprise of earning a living against unreasonable, bigoted interference. Finally, the bills are designed to carry out the moral principles of our religious heritage in a practical program suited to our day. National morality and national conscience dictate that we close the gap between some American practices and American ideals.

When we are charged with catering to minority interests, with fishing for minority votes, we assert that this is a truly national program, as devoid of sectional gain or partisan interest as any legislation that ever came before the Congress.

The discrepancy between American ideals and American practice—between our aims and what we actually do—creates a moral dry rot which eats away at the foundations of our democratic faith. Democracy cannot thrive in a climate of hypocrisy. Democracy cannot prosper in a land where 40 million people—members of one minority group or another—are denied the basic assurance of healthy community life, the assurance that they belong, the assurance that they count, the assurance that there is only one class of citizenship and that they enjoy it. Our national morality based on our religious heritage demands an end to discrimination rooted in bigotry. In the words of George Washington, "To bigotry, no sanction."

And I hope it is as significant to the committee as it is to me that every major church denomination has endorsed the provisions of this bill, H. R. 702, which I introduced and which Senator Ives introduced in the Senate.

During the war, we found that we lacked skilled workers for many vital jobs. This dangerous shortage might have been avoided if minorities had not been denied opportunities for training and experience. Now we find that job discrimination continues to cripple business opportunities. Hundreds of business leaders have come forward to testify that fair employment practices are good business practices. They tell us that denying jobs to certain people denies markets for other people—and such a policy drags down the whole economic level in a vicious circle. They have discovered that they cannot sell electric refrigerators to a family that cannot afford electricity because its principal breadwinner is denied an opportunity to work at any but the most menial trades. They understand that real economic progress requires that the whole Nation move forward at the same time without artificial barriers erected by ignorance or intolerance. Prejudice produces no wealth. Discrimination is bad business. And so I insist that our fair-employment-practice bill is a real and significant contribution to America's productive capacity and to the preservation of our free enterprise system.

Today democracy as we know it is on trial before the world. In the last analysis that trial will not be won by our magnificent air lift, or our unmatched industrial strength, or our atom bombs. Ultimately, our way of life will win out only if its promise of moral and spiritual leadership is fulfilled.

Fair treatment for racial minorities in America is basic to our chance for a just and abiding peace. I am absolutely convinced of that as a member of the Foreign Affairs Committee.

The world will not trust us if we talk out of both sides of our mouth, if we are on one side abroad and on another side at home. Two-thirds of the world's peoples are colored. We cannot expect that they will respect our good faith or our avowed purposes if we continue to practice an ugly discrimination here at home against our own minorities. We will have to fight a rear guard battle in Europe or Asia so long as each lynching is carried in the headlines of foreign newspapers, so long as our enemies can point out the fact that so many millions of our

people are not full partners in our democracy. For the sake of our national defense, we must not permit prejudice and discrimination to become our Achilles' heel. And I believe that we have no time to lose in this matter. FEPC legislation and the other civil-rights bills before Congress now are long overdue.

We are a nation blessed by God with material riches beyond all others. Our mountains, our plains, our rivers, our harbors have given us industry and commerce, agriculture and mining resources that are the envy and despair of the world. But our richest and our greatest resource is people—people living under free and fair institutions which permit them to develop fully the talents God gave them. We waste this resource if we sanction discrimination.

While there is no precise measure of the extent of employment discrimination, to answer the question that one of the members put a while ago, there is convincing evidence that discrimination is increasing. So the Committee on Fair Employment Practices of the President reported to him in June 1946 upon the completion of its task that discrimination was decreasing.

The United States Census Bureau survey reveals that in April 1947 the proportion of unemployed among white workers was 3.8 percent and among nonwhites 6.7 percent. Also significant is the fact that the unemployment ratio had increased since 1945 about 150 percent among white workers but more than 300 percent among nonwhites. An analysis of the report indicates that the problem is not confined to any one section of the country but is equally acute on the Pacific coast, in Detroit, Ohio, and New York.

A survey made by the Ohio State Employment Service indicated that 24 percent of the job requests received carried the condition "White only." That was in Ohio. Negro workers did not even have an opportunity to discuss with prospective employers their qualifications for doing the job which he needed done. Of course, the 23 percent figure must be considered a minimum since we know from ample experience that a substantial number of other job openings were discriminatory although not specified as such.

At the same time that discrimination increases at the hiring gate itself, we have noted that there has been a forced retreat by Negroes from skilled and semiskilled jobs into the common-laborer classifications, and from production jobs to service jobs. The Labor Market Reports issued by the United States Department of Labor illustrate this point by quotations from surveys of industry after industry—agriculture, machinery, hosiery, prefabricated housing, telephone communications, bakeries, and so forth.

Employment discrimination is, of course, not limited to Negroes. The 1948 annual survey of the Anti-Defamation League of B'nai B'rith reports—

A spot survey of private employment agency registration forms conducted during September 1948 in 33 of the 48 States showed that 60.3 percent of these asked questions about religion; 33.9 percent about nationality; 28.4 percent inquired into place of birth; 16.5 asked about descent; 11.9 percent asked about race.

Similar discrimination, often in more aggravated form, is suffered by countless other Americans whose mode of worship, national origin, or skin color served to disqualify them for securing employment commensurate with their ability. I mention Japanese-Americans, Mexi-

can-Americans, Indians. Their story is set out in convincing detail in the report of the President's Committee on Civil Rights.

"This form not to be used in the States of Connecticut, Massachusetts, New York, and New Jersey" reads the heading of a 1948 application blank of the Goodyear Tire & Rubber Co. The application for a position with this giant American corporation then goes on to ask such questions as religion, lineage, father's birthplace, and so forth, and says:

Please attach recent photograph of yourself. This is essential. Otherwise your application will not be considered.

Here in dramatic summary form is an example of what has been accomplished by FEPC legislation. The four States listed at the top of the application—Connecticut, Massachusetts, New York, and New Jersey—are the States which for the past 3 years have had fair employment practice acts with enforcement provisions.

Prior to the passage of these State laws, statements were made to the effect that business would leave the State, white employees would quit their jobs, and employers would be harrassed with irresponsible charges. These dire predictions have proven groundless.

We have the testimony of the chairmen of the commissions of the three States with the longest experience with antidiscrimination laws. This evidence was given in the Senate last year in favor of the Ives bill. All report that there has not been a single instance of a business leaving a State, of a mass walk-out, or a complaint by any employer that compliance with the law has resulted in the loss of either customers or revenue. Quite to the contrary, they testified that a growing number of companies had come to the conclusion that antidiscrimination laws helped business by promoting a more efficient utilization of labor. As one executive put it, "Some of the people I have hired under the new law are outstanding. You ought to point out to employers the advantages they get from an increased labor market where they have access to so many qualified workers."

Would the chairman like me to include as part of my testimony some copies of letters from businessmen from the State of Connecticut, New York, New Jersey, and Massachusetts, along these lines?

Mr. POWELL. Without objection, it is so ordered.

Mrs. DOUGLAS. The three commission chairmen were unanimous in declaring that the FEPC laws in their respective States had resulted in a marked decline in discriminatory practices and in the virtual elimination of discriminatory advertisements and employment application forms. Especially significant is the fact that they reported a total of 1,220 cases, and in not a single case was it necessary to go beyond the processes of "conferences, conciliation, and persuasion" to effect a satisfactory adjustment. They were unanimous, too, in the opinion that enactment of a Federal statute would strengthen and facilitate the administration of their own laws. The experience of the States is fortified by experience on the Federal level by the record of performance of the wartime FEPC. During its most active 2 years, FEPC closed an average of 250 cases a month. About 100 cases a month were closed as having been satisfactorily adjusted. Some warplant gates were thereby opened to minorities hitherto refused admittance. Government and industry were persuaded to advance many minority workers to their established skills.

The effect of these cases on the morale of minority-group workers is not precisely measurable. That the effect was far-reaching and beneficial was shown by the minimum of interracial friction during World War II as compared with World War I. Vociferous threats to strike if minorities entered a plant evaporated when responsible workers and employers took a firm position against discrimination.

The record of the Federal FEPC is concededly not as successful as the State FEPC's. The reason is clear. The Federal Government program lacked enforcement powers.

The chairmen of the State commissions who have testified on the subject are unanimous in emphasizing that although no State had as yet found it necessary to invoke legal sanctions, the very fact that it is part of the procedure has had its effect and has helped make possible the really remarkable record of cases settled through conciliation alone.

We know of instances where State commissions have succeeded while the Federal Commission failed. In New York, for example, the commission successfully concluded an arrangement with a number of railroad unions to eliminate discriminatory clauses in their constitutions and bylaws. The Federal FEPC, lacking the power of enforcement, failed to do this.

It is significant that the foes of this legislation have all joined with us in professing their opposition to discrimination, and that hardly a voice has been raised in defense of such practices. The attack is always on method. We are told that racial or religious prejudice can be eliminated only by education and that legislation in this delicate field will promote strife and conflict.

The opposition ignores a fundamental distinction between prejudice and discrimination. Prejudice is a state of mind, and discrimination is an overt act. Our system can indulge a man's individual prejudices however wrongfully conceived, so long as they remain a state of mind. But our democratic system cannot permit a man to translate his prejudices into action which infringes the rights and liberties of others. This is a fundamental premise of our civil and criminal law. When prejudice is translated into active discrimination whereby men, solely because of their race, religion, color, or national origin are denied an opportunity of earning a livelihood for themselves and their families, it is the proper function of government to prevent such practices.

We see in the case of the Goodyear Tire & Rubber Co. why this kind of legislation is so necessary.

In the discussion on the Taft-Hartley bill a few days ago, I used as the basis of my talk testimony presented by the Federal Trade Commission before the Committee on Small Business, revealing the degree of economic concentration in this country.

When we view discrimination in the light of those figures we begin to see the picture clearly. When we realize that 113 companies—giant manufacturing corporations in this country—control no less than 50 percent of the Nation's industrial physical plant, that is, its net capital assets—one-half of our productive facilities owned by 113 corporations, mind you—when we realize this fact, then we understand where the prejudice of a few men against Mexicans, Jews, Negroes, or Catholics is leading us.

In some parts of the country, Mr. Chairman, prejudice is just as violent against Catholics as it is in other parts against Negroes.

Since business has become so centralized and fallen more and more into the hands of a few men who control the lives and the welfare of millions upon millions of people, I think it is time that the Federal Government stepped in to see to it that the prejudice of a few does not relegate millions to secondary citizenship. I think that this is a new and basic approach to the need for FEPC legislation.

I know, as I studied the testimony before the Small Business Committee, I began to look at it in a little different way than I had before.

We are also told that the program of civil rights contravenes the principle of States' rights. Let us put the issue more accurately. The legislation I have proposed and is proposed by the chairman of the committee and the administration, is designed to protect the right of all Americans to earn a livelihood at any trade without discrimination because of race or creed. Surely this is a basic right. Surely this is one of the foundations of the dignity of the human person. And surely it must be preferred over the arid principle of State rights—or, to be more accurate, the principle of State wrongs. For what rights are involved in our opponents' program—the right of States to prevent people from finding jobs because of their color? If this were not a wrong—instead of a State's right—this issue never would have arisen.

I have, further in my statement, an analysis of my bill, and that would also apply to an analysis of the bill before you. I will not take time to read it now, Mr. Chairman, but I would like to include it in my testimony.

Mr. POWELL. I want personally to thank the gentlewoman from California for a most excellent statement, and, without objection, the material which she asked to include later on this afternoon, is ordered included in the record.

(The material referred to is as follows:)

ANALYSIS OF THE BILL

1. It is declared to be the policy of the United States to protect the right of employment without discrimination and to eliminate such discrimination in all employment relations within the jurisdiction or control of the Federal Government.

2. The prohibition against discrimination applies to employers and labor organizations. Domestic service and small business are exempted from the scope of the bill by a provision which defines "employer" as a person engaged in interstate commerce who employs 50 or more individuals. Similarly, the only labor organizations covered are those which have 50 or more members in the employ of employers covered by the bill. Also exempted from operation of the act are States, municipalities, and political subdivisions, and any religious, charitable, fraternal, social, educational, or other nonprofit corporations except labor unions. Federal Government agencies are covered by the bill.

3. The heart of the bill defines unlawful employment practices as a refusal to hire, or to discharge or otherwise penalize, any employee with respect to his employment because of his race, religion, color, national origin, or ancestry. Labor organizations are forbidden to discriminate against any individual or to limit, segregate, or classify its members in any way which would deprive or limit an individual's employment opportunities because of his race, etc.

It must be noted that the prohibitions do not go beyond saying that there shall be no discrimination because of factors which have no real relationship to an employee's fitness or qualifications. Management is left free to set its hiring practices, organize its internal plant policy, and discharge employees, according to any standard it may adopt so long as there is no discrimination because of

race or the other prohibited irrelevant factors. In the same way, organized labor is free to manage its internal affairs according to its own lights, except that it, too, may not deny any of the advantages of union membership or collective bargaining to any person because of race, etc.

No group in the American economy is more jealous of its prerogatives and its rights to be free from arbitrary Government restraints. It is altogether significant, therefore, that America's two great labor organizations have endorsed the provisions of this bill. They see in it no threat to their legitimate interests or their legitimate right to be free from unjust Government interference.

4. Administration of the bill is entrusted to a national commission against discrimination in employment composed of seven members to be appointed by the President and confirmed by the Senate. The members of the Commission hold office for overlapping terms at the outset of 1-7 years, and their successors hold 5-year terms.

5. In order to secure the maximum adoption by industry and labor of the fair employment practices prescribed by the act without invoking legal sanctions, provision is made for the creation on local, State, and regional levels of advisory conciliation councils. The experience of the States that have FEPC laws testifies that impressive results have been achieved through conciliation and mediation, and that rarely, if ever, are legal sanctions invoked.

6. The conduct of the Commission's enforcement powers are prescribed as follows: First, the Commission shall investigate the sworn, written charges of persons claiming to be aggrieved and shall endeavor to eliminate the practice complained of by conferences or conciliation. If voluntary compliance efforts fail, then hearings shall be held before the Commission, in conformity with the Federal Administrative Procedure Act, and in appropriate cases cease-and-desist orders are to be issued.

7. Judicial review of cease-and-desist orders is provided in conformity with the Administrative Procedure Act. The Commission's orders to cease-and-desist from unlawful employment practices or to take curative action (e. g. reinstatement, or hiring of employees with or without back pay) are legally enforceable only after they have received judicial approval from the appropriate Federal court.

8. Rules and regulations may be issued by the Commission in conformity with the Administrative Procedure Act; but the Congress may, by concurrent resolution, disapprove of any regulation issued by the Commission.

COMMENTS ON FEPC FROM STATES IN WHICH LEGISLATION IS IN EFFECT

From State to State, the same arguments are being used against fair employment practices legislation. It may be helpful to examine these arguments in the light of statements made by business and industrial leaders in Connecticut, New York, New Jersey, and Massachusetts, where FEP laws have been in operation for some time.

WILL AN FEP LAW ACTUALLY WORK?

Many people express the opinion that a fair employment practices law cannot possibly be an effective instrument for equalizing employment opportunity, in view of the rigidity of discriminatory patterns in many businesses and industries. A measure of the effectiveness of present FEP laws can be arrived at by examination of the annual reports of the administrative agencies in the States where the laws are in force. The reports indicate without exception that, though the process is slow, progress is being made in many areas.

Peter Grimm, former president of the Chamber of Commerce of the State of New York says:

"The . . . anti-discrimination law, after 2½ years of trial (in New York), appears to have operated effectively, so far as I have been able to judge from talks with men in various lines of business. The administration of the law has been effective and salutary."

On February 8, 1948, the New York Herald Tribune bore witness to the effectiveness of New York's fair employment practices law:

"* * * The Ives antidiscrimination program is something that works; in close to 3 years of existence the State Commission Against Discrimination, conceived among great argument and misgivings by many, has quietly shown the way that conciliation and persuasion can establish completely new patterns."

R. T. Barker, superintendent of personnel administration, Western Electric Co., Inc., New York, has this to say:

"It is my own opinion that the administration of the fair employment practice law in the States of New York and New Jersey has been fair and reasonable and has not entailed any undue hardship on employers who are trying to do a conscientious job in their employee relations situations. We have not experienced any difficulty in meeting the requirements of these laws and so far as I know, they have been accepted generally by our employees."

DOES FEPC VIOLATE THE AMERICAN SPIRIT OF FREE ENTERPRISE?

One argument commonly raised is that fair employment practices legislation is a violation of the "traditional American spirit of free enterprise" and that it interferes with the exercise of managerial prerogatives. A statement contained in a letter to the New York State Commission Against Discrimination from the head of a State-wide organization of retail merchants bears on this question:

"Surely, the present law imposes no hardships on the employer. It simply applies penalties to acts of discrimination when those acts deprive an inhabitant of our State of the fundamental human rights which he has; namely, the right to earn a living. There is nothing involved or intrusive about the requirements of the law. The employer is merely asked to hire or retain in employment the best man or woman for the job. It simply says that regardless of race, color, or national origin, he or she cannot be barred from employment so long as he or she meets all of the qualifications which the employer has set for the job."

ARE EMPLOYMENT PRACTICES A PROPER AREA FOR LEGISLATION?

Often the argument is voiced that it is impossible to do away with prejudice by legislation, and that therefore fair employment practices legislation offers no real solution to the problem of employment discrimination. As a matter of fact, FEP measures are not designed to attack prejudice itself, but instead, to prevent overt expression of prejudice as manifested in industrial discrimination.

F. Frank Vorenberg, former mayor of Springfield and president of Gilchrist & Co., one of the largest and oldest department stores in Massachusetts, has this to say on this question:

"While there is no doubt considerable value to the threat of legal action if fair employment practices are not followed, I like to think that the principal value of the statute and of the constructive activities of the commission has been in offsetting the fears so commonly expressed by employers during the committee hearings on the bill and elsewhere, the fear of legislating in an area where moral principles ought to be the guiding factor, and the fear of the effect of employing members of minority groups in positions where they had traditionally not been employed. The statute and the policies of the commission have gone a long way to prove the truth of the famous phrase used in President Roosevelt's first inaugural, 'The only thing we have to fear is fear itself.'"

The Massachusetts Fair Employment Practice Commission is in receipt of a letter from Roger L. Putnam, president of the Package Machinery Co., stating the following:

"Neither as chairman of your advisory council, here in Springfield, nor as a manufacturer have I ever heard anyone in the last 2 years say that the law ought to be changed. Every one now admits that the principles that FEP legislation is striving for are just."

During the month of February, the division against discrimination of the New Jersey Department of Education¹ initiated a survey to ascertain the reactions of industrialists and other employers to the operation of the New Jersey anti-discrimination law.

The questionnaire, which was directed to 158 employees in all parts of the State, representing all sizes and kinds of businesses, made the following inquiries:

(1) Has the New Jersey antidiscrimination law caused any new difficulties or problems in your business or community?

(2) Has the antidiscrimination law interfered with your basic right to select the most competent workers for your operations?

¹The division against discrimination is the agency empowered to administer the New Jersey antidiscrimination law.

(3) Do you believe that the antidiscrimination law has been fairly and effectively administered by the Department of Education in New Jersey?

By mid-March the division against discrimination had received 65 responses, which, without exception, report reactions favorable to the law.

Several of the letters received by the division are attached in full in addition to excerpts from other letters.

FILENE'S DEPARTMENT STORE,
Boston, Mass., January 28, 1949.

ROBERT E. SEGAL,
Executive Director, Jewish Community Council, Boston 8, Mass.

DEAR MR. SEGAL: As a businessman I am in favor of the Fair Employment Practice Act insofar as the act in its administration in Massachusetts is concerned. It is my opinion that under the legislation our State commission is proceeding soundly toward the cooperation of all kinds of business, such action being largely education rather than punitive.

Great difficulty and trouble was predicted during the discussions prior to the passage of the Massachusetts Fair Employment Practice Act and those fears have not materialized. Out of 500 complaints on discrimination during the past 2 years all but 31 have either been withdrawn or settled to the satisfaction of both parties, and the 31 mentioned are now pending and in the process of adjustment. This sounds like real progress to me.

Sincerely,

H. D. HOBKINSON,
Vice President and Manager.

ST. REGIS PAPER CO., PAMOLYTE DIVISION,
Trenton, N. J., March 17, 1949.

MR. HAROLD A. LETT,
State of New Jersey, Department of Education,
Division Against Discrimination, Newark 2, N. J.

DEAR MR. LETT: In reply to your questionnaire concerning the effect of State's antidiscrimination law, we would like to advise you that we have had very little difficulty with it.

No problems that have not previously been with us have been raised since the inception of the law, nor has it interfered with our hiring procedure.

A few cases which have required investigation by your department have been handled in a very efficient and fair manner. We have previously written your department, setting forth the same opinion.

We believe that you are doing your job quietly and well.

Very truly yours,

OSCAR DULL, Jr.,
Director, Industrial Relations.

NEW YORK SHIPBUILDING CORP.,
Camden, N. J., March 2, 1949.

State of New Jersey, Department of Education,
Division Against Discrimination, 1060 Broad Street, Newark 2, N. J.
(Attention Mr. Harold A. Lett, Chief Assistant)

GENTLEMEN: In reply to your inquiry of February 24, 1949, we wish to say that the subject law has caused no new difficulties or problems in our business. Regarding this, it may be well to point out that the management of this corporation has always recognized the inherent right of an otherwise qualified individual to be gainfully employed here regardless of race, creed, or color.

We are aware of no added problems or difficulties in the community caused by the law.

The law in question has not interfered with our right to select the most competent workers for our operations.

We have heard no adverse criticism concerning the administration of the antidiscrimination law by the Department of Education in New Jersey.

Very truly yours,

C. E. SHARP,
Industrial Relations Manager.

NEW JERSEY BELL TELEPHONE CO.,
Newark 1, N. J., March 4, 1949.

MR. HAROLD A. LETT,
Chief Assistant, Department of Education,
State of New Jersey, Newark 2, N. J.

DEAR MR. LETT: This is in reply to your questions regarding the effect on employers of the State's antidiscrimination law. In this connection, you have asked three questions and, briefly, the answers are as follows:

1. As this company had made some progress in the integration of racial groups prior to the passage of the New Jersey antidiscrimination law, I would say that no serious difficulties since its passage have been introduced. The question is now taken as a matter of course.

2. The antidiscrimination law has not interfered with our right to select the most competent workers.

3. We believe that the antidiscrimination law has been administered with an unusual amount of understanding by the department of education.

Yours sincerely,

A. P. MONROE, Vice President.

LEA FARMER, INC.,
Newark, N. J., March 17, 1949.

MR. HAROLD A. LETT,
New Jersey State Department of Education, Newark, N. J.

DEAR MR. LETT: While our observation and knowledge of the operation of the State's antidiscrimination law is somewhat limited, I am pleased to answer your letter of the 10th.

Shortly after the law went into effect, we were charged with discrimination, and one of your representatives called and made an investigation. He was given every opportunity to interview anyone he saw fit, including union officers. His report showed he found no discrimination. The real point is not that the company was cleared of the charge, but that the investigation was made in a fair and impartial manner.

In answer to your specific questions, I would say that this law has, insofar as our company is concerned, introduced no new difficulties in our business or interfered with our selection of the most competent workers.

I believe from our experience that the law is fairly administered.

Very truly yours,

E. K. FILES, President.

EXCERPTS FROM LETTERS FROM EMPLOYERS

"March 10, 1949. * * * It is a pleasure to hear from you in your letter of March 10. It is certainly a pleasure on my part also to give a testimonial to the fine manner in which Commissioner Bustard and all of you on his staff have handled the assignment here in New Jersey. I don't know that I can say more, but would be glad to write or talk with anyone who might have any questions on the subject. * * * Yours sincerely, W. H. HILL, Baldwin-Hill Co., 600 Breunig Avenue, Trenton 2, N. J."

"While we cannot speak from first-hand experience, all that we have learned from observation, discussion, public and private comment, leads to the inference that the department of education of the State of New Jersey, is doing an excellent job in fair and effective administration of the antidiscrimination law. * * * The Lionet Corp., 28 Sager Place, Irvington. Anthony Mercollino, assistant to vice president, industrial relations."

"March 10, 1949. * * * The administration of the antidiscrimination law, to the best of our knowledge, has been fairly and effectively done by the department of education in New Jersey and we have had no trouble nor inconvenience in abiding by the terms of the law. Very truly yours, Sigmund Eisner Co., 240 Bridge Avenue, Red Bank, N. J. C. R. Sellar, controller."

"March 14, 1949. * * * It is my opinion that the antidiscrimination law has been fairly and effectively administered by the department of education in New Jersey. We have had several contacts with field representatives of your office, and in every instance have found them to be reliable and open-minded when making investigations. Inquiry on the part of your department has served to point up some of our personnel practices resulting in improved management.

Sincerely yours, Irvington Varnish & Insulator Co., Irvington 11, N. J. Joseph Pickett, manager, employee relations department."

"* * * I not only believe that the antidiscrimination law has been fairly and effectively administered by the department of education, but it has been done in such a diplomatic way the majority of the people are not conscious that it is being operated." John Lucas & Co., Inc., Gibbstown, N. J. A. W. Smyth, personnel manager."

The following are letters received from the State of Connecticut concerning the Fair Employment Practices in that State:

THE ALLEN MANUFACTURING CO.,
Hartford, Conn., January 13, 1939.

MR. FRANK T. SIMPSON,
Executive Secretary, State Inter-Racial Commission,
State Office Building, Hartford, Conn.

DEAR MR. SIMPSON: As far as I have had knowledge of and contact with it, I have been much impressed with the operation of the State Inter-Racial Commission under the Fair Employment Practices Act.

Since the 18 months that the act has been in effect, I believe the Commission has accomplished more in the way of equalizing the employment opportunities for all groups and in promoting understanding between different groups than any other agency, public or private, serving this area of human relations.

Perhaps even more significant than the actual results has been the Commission's approach to a critical social problem charged with controversy and ignorance. It has proceeded quietly and effectively, keeping its big stick in the closet, and stressing voluntary compliance. It has forcefully applied the techniques of education, relying on the natural common sense of Connecticut citizens, whether they be employers or workers. Its personnel has been carefully chosen and trained to reflect this democratic spirit of administration.

It is obvious that the biggest obstacle in securing fair-employment practices throughout the State is getting minority workers past the employment office door. Once this is done, on the basis of proper qualifications for the particular job openings, it is up to these workers to make their own place on the work team. In our employment experience we have found that, given adequate ability and a friendly, willing personality, minority workers have no trouble in being fully accepted by their coworkers and in earning promotions to higher-paying jobs.

Yours sincerely,

ELLSWORTH S. GRANT,
Vice President of Industrial Relations.

HEAT CORPORATION OF AMERICA,
South Norwalk, Conn., January 31, 1939:

MR. FRANK T. SIMPSON,
Executive Secretary, State Inter-Racial Commission,
State Office Building, Hartford Conn.

DEAR MR. SIMPSON: Since the enactment of the Fair Employment Practice Act for the State of Connecticut, I have found that this law has in no way interfered with our employment practices.

Upon its passage, local personnel groups here in Norwalk obtained a speaker from the State Inter-Racial Commission so that we would all be cognizant of the the law and how it was to be interpreted.

I think that many firms thought that it would interfere with the operation of its policy covering hiring and promotions but we received such a clear interpretation of the act that we saw nothing in it that would present any difficulties.

This act created no problems but on the other hand has assisted in equalizing employment opportunities for all.

I think that the fair employment practice law has helped both union and management as it has clear-cut definitions that cannot be misinterpreted.

Very truly yours,

W. P. MORIN, Personnel Director.

PITNEY-BOWES, INC.,
 Stamford, Conn., January 28, 1949.

MR. THOMAS F. HENRY,
 Supervisor, Fair Employment Division,
 States of Connecticut Inter-Racial Commission,
 State Office Building, Hartford, Conn.

DEAR MR. HENRY: I am very happy to reply to your letter of January 26 in which you ask for a statement of our opinion with reference to the fair employment practice controls operating in Connecticut.

We started our Negro Integration program at Pitney-Bowes before the enactment of the Connecticut Fair Employment Practices Act. Many of the problems which we encountered, however, would have been much less difficult had we had the support of such legislation and the expert assistance of the Inter-Racial Commission's personnel.

One of the most valuable services of the many being rendered by the commission, in my opinion, is the educational campaign which it conducts. In the long run, it is this campaign which will bring the greatest and most lasting results; but I am afraid that, by itself, and without the backing of legislation, the educational work would be ineffectual.

Mr. Hensch's letter requested statements from speeches, etc., which you might quote. The following is taken from a talk I gave before the annual convention of the National Urban League in Richmond, Va., on September 7, 1948. The title of the talk was "The Negro's Stake in the Future of American Industry."

"Inclusion of the civil rights issue as a part of our two major political party platforms has been a recent dramatic illustration (of the progress made in removing the inconsistency between our democratic principles and the discrimination practiced against Negroes and other minority groups in the United States). Less sensational, but just as significant, has been the adoption of anti-discrimination laws by a number of States, and the contemplated adoption of such legislation in still other States.

"Besides being the initial step in guaranteeing fair employment opportunities for Negroes, the enactment of these laws within our representative State governments is in itself an indication of public readiness to accept the laws. My home State of Connecticut, small in size but mighty in industrial importance, adopted its own Fair Employment Practices Practice Act in May 1947, and it is functioning very successfully.

"There are of course a number of well-meaning people who oppose legislation to abolish discrimination in employment, most of them through the feeling that legislation is not the real answer to a problem which can best be solved by education. Naturally, legislation cannot itself destroy race prejudice, but it can and should be the framework upon which the building of free economic opportunity for Negroes can be started. The educational side of the picture is the ultimate answer, but—as all of you must know very well from experience—the process is a slow and often painful one which needs the assurance of support that only legislation can give it. The purpose of such laws, and all laws, for that matter, is to protect rather than to punish. With proper administration and with cooperation from industry, I think these laws are a very important step in the right direction. If they did nothing else, they would at least be helpful to those employers who would prefer to treat the Negro fairly, but who would lack the courage to do so without the excuse which the laws furnish."

Sincerely yours,

J. J. MORROW, Personnel Manager.

MR. POWELL. One thing you have pointed out is the effect that FEPC had on employers, because there were rumors that employers would simply desert the State, and that sort of thing, if FEPC laws were passed. I can remember when the vice president of the New York Telephone Co., before Governor Lehman's commission in 1938, said that the telephone company employed no Negroes, very few Jews, and very few Catholics. Of course, I asked, "Whom did they employ in New York?" But through various forms of persuasion and FEPC legislation, today all that is done away with in the telephone company of New York City. In New York City now we have over 700 Negro men and women working in white collar positions. And just last week

at a conference of the personnel department of the telephone company, the record of Negro workers in the telephone company is of such a high efficiency rating that they are now going to make a Negro woman chief operator in New York City.

Now, that is what has happened in this type of legislation in a period of just 10 years.

Mrs. DOUGLAS. The letters and statements of chairmen of State FEPC Commissions bear out what you say, Mr. Chairman.

Mr. POWELL. Mr. Perkins, do you have any questions to ask?

Mr. PERKINS. The General Assembly of California—have they ever had this question of FEPC before it for study or have they ever enacted any law?

Mrs. DOUGLAS. No; we have not in California. In 1946, California by referendum defeated a State FEPC law. But it was not a fair contest. An analysis of this situation can be found at pages 497 and 501 of the hearings on S. 984, the first session of the Eightieth Congress.

The opposition, parading under the title, "Committee for Tolerance"—it is always very interesting when those who oppose tolerance use a label that implies the spirit of tolerance—

Mr. PERKINS. Without mentioning any names?

Mrs. DOUGLAS. The committee, guided by such people as the Rev. James W. Fifiield of "Spiritual Mobilization" fame, engaged in a deliberate campaign of misrepresentation throughout the State to the effect that the bill denied a right to fair trial, that no court review was possible, and so forth.

Billboards costing thousands upon thousands of dollars—I can get copies of them for the committee if they are interested—billboards were planted from one end of the State to another, "Don't vote for Communist FEPC." And they had the gall to put them in the Negro districts.

Now, you see, we who are supporting FEPC did not have this kind of money. We had to tell our story by word of mouth. And we could not get around fast enough to contradict the lies that were put out about FEPC. A great number of people in California never knew what FEPC was. I felt the opposition twisted the FEPC measure before the voters into a bogus issue. The voters of California never really voted on the issue at all.

Californians in many ways have been quite progressive in their attitude toward minority groups. Through community organizations we have made efforts to try to eliminate tensions.

In California, because of the war, our Negro population has doubled, both in the north and in the south. The impact of minority groups has been felt over the years, the Filipinos, the Chinese, the Japanese. I am always amused when the southerners act as if they were the only ones whom civil-rights legislation will affect. We have plenty of problems in California.

I wish southerners would realize civil rights is not a problem confined only to the South.

Mr. PERKINS. Without mentioning any specific examples, it is apparent to you that discrimination does exist in California?

Mrs. DOUGLAS. Oh, yes; certainly.

Mr. PERKINS. And it is your sincere belief, I judge from your statement, that this FEPC legislation is necessary in order to promote a

better democracy in this country, in order that the people who are being discriminated against will have an incentive to go forward and try to educate themselves and become better citizens; am I correct in those statements?

Mrs. DOUGLAS. You are completely correct.

Mr. PERKINS. That is all.

Mr. POWELL. Mr. Burke?

Mr. BURKE. As you know, I come from a heavily industrialized district, and I have had a great deal of close personal experience with this matter of discrimination, particularly in employment. As much as we have been able to do on a private level from the standpoint of eliminating discrimination, we find that we need legislation of this type to back us up. For instance, I would like to show why it sometimes takes years to accomplish a job that has to be accomplished.

When the unions first went into mass production, we found some people who, because of either their race or their national origin, particularly those two instances, were confined to the most menial of jobs in the plants. The unions had first to establish a seniority system for the prime purpose of job security, and it was years before they were able to get a second benefit, to use the seniority system as an upgrading system. And it was only after we were able to get that that we were able to upgrade these people from the most menial jobs to the best jobs.

I agree wholeheartedly with the gentlewoman's statement that voluntary means, although they may be good in themselves, just are not sufficient. They need backing up.

Now, in my own State, the State legislature at the present time is considering this type of legislation. The house has passed a compulsory FEPC. The senate has passed a voluntary FEPC, and it is now in conference committee, and I cannot predict how it will come out. But you cited Ohio, and that is my State, and that is the condition we are in now. So we need this type of legislation.

Mr. POWELL. Mr. Brehm?

Mr. BREHM. Mr. Chairman, I believe I have no questions. I do want to congratulate the lady, though. I think she made a splendid statement. I intend to check with the Ohio State Employment Service concerning your statement regarding "whites only." I am particularly anxious to find out whether those are unions, or closed shops, to find out where the responsibility for such writings can be assigned. I want to know those things.

Mrs. DOUGLAS. I see.

Mr. BREHM. I do not know whether I can frame this question or not. But at the top of page 8, you refer to the Goodyear Tire & Rubber Co. I have worked for the Goodyear Tire & Rubber Co. I have worked for Firestone, also, and Goodrich, and in the steel mills of the United States, quite a lot, in my time. That has been years ago. And at every one of those places, I had to fill out a questionnaire identical with the questionnaire which is now required. I was asked where I was born, where my father was born, my religion; I was asked those questions. Well, I was asked the same thing when I took out life insurance and in the Army and in the Navy.

In other words, all my life every place that I have ever gone, I have had those questions asked of me. My question is, does the lady think that as far back as that which has been, I am sure, over 30 years ago,

even then that was being done with the idea of discrimination in view? And just now, as of this recent date, has this come to the front as the reason for motivating this legislation? I am wondering if it could be.

Mrs. DOUGLAS. I think that is a good question, a very good question. May I answer the first part first?

Mr. BREHM. Yes.

Mrs. DOUGLAS. The Goodyear Tire & Rubber Co. have answered for themselves. If the application blank which they put out over the years was in no sense meant to be discriminatory, why did they themselves print at the head of their new forms, "This form not to be issued in the States of Connecticut, Massachusetts, New York, and New Jersey"? I think that answers your question, Mr. Brehm. Had that questionnaire not been drafted so as to eliminate certain applicants because of religion, color, or national origin the Goodyear Tire & Rubber Co. would have gone ahead and issued the usual forms in those States which had FEPC laws. Their conscience would have been clear. Obviously, their conscience was not clear.

You asked, have such questionnaires been used for the purpose of discrimination through the years. I think we must get back again to the concentration of economic power in this country to see why we must now do something. We must do something on two counts. I think we have had discrimination, to answer you, in the past but the economic situation has not been as acute as it is now. Gradually down through the years, the economy of the country has fallen more and more into fewer and fewer hands.

For instance, a young man today leaving college—what is his future? I talked to some people the other day. They said to me, "Where are the thousands and thousands of young people going to find jobs when they get out of college?"

They are certainly not going to start their own businesses. Yet I can remember back when my brothers graduated from Williams in 1920, and then from engineering school at Columbia in 1923 or 1924. They were very young. They went into their father's business. And all our friends went into their fathers' businesses. But not many young men in that same class have any opportunity of owning their own businesses today. Now corporations, giant corporations, and as the testimony before the Small Business Committee shows, the Big Three, the Big Four, the Big Six, control what? Not just 50 percent of their industry, as the 113 giant manufacturing companies control manufacturing; but 50 percent, 60 percent, 70 percent, 80 percent, yes, and sometimes even 90 percent. Get those hearings and read them. It is the most revealing testimony that has been presented in this Congress.

So if a few people control the lives of millions of people and practice discriminatory practices, what happens to the standard of living of those people? The Government must step in. It seems to me that we must view this problem as an immediate and acute one, because of the economic conditions involved.

Then there is the secondary factor. I believe that there are two great movements in the world today, one, the conflict between communism and democracy, and the other the forward march of the non-self-governing peoples of this world. I believe that we will win the first, the conflict between democracy and communism, if we understand and give leadership to the second conflict in the world.

Mr. BREHM. I agree; yes.

Mrs. DOUGLAS. And to have the two-thirds of the people in the world who are colored move toward democracy, they must have faith in us. We are the greatest and most powerful democracy in the world. And the only way they can have faith in us is to admire our performance, have faith in our performance. We must set the example here at home if they are to believe that we respect all people regardless of the difference in pigmentation of their skin. So, there is an immediate pressure on us to act now, in view of the world picture.

I do not understand why people who have nightmares about communism don't understand this. I, personally, do not have nightmares about communism, because I have such faith in democracy. I think communism has nothing to offer, if we will only live up to our democratic principles.

But to live in a democratic pattern fully up to the ideals which we profess takes some doing.

Mr. BREHM. That is a splendid point.

Mrs. DOUGLAS. I takes some doing.

Mr. BREHM. That is a splendid point. I agree 100 percent with the lady. I am on record as opposed to monopolies and cartels, and I know their evils.

Mrs. DOUGLAS. I know that.

Mr. BREHM. The point that is in my mind, and I think the lady has developed it, is that perhaps this was just a precedent which has been established over the years. Did Connecticut, Massachusetts, New Jersey, and New York employ the same type of questionnaire as Goodyear or Goodyear before the FEPC law was enacted in those States?

Mrs. DOUGLAS. The Goodyear employed the same type of application in those States, and withdrew them with the passage of FEPC.

Mr. BREHM. The motive back of this was what I was concerned with. That is, whether this was some philosophy that has been going on for years and years, or whether it was just expressed.

I will say this again to the lady—

Mrs. DOUGLAS. I will say this to the gentleman. I do not think it is an evil thing to have prejudices, if they do not affect the lives of thousands and millions of people.

Mr. BREHM. I agree with you.

Mrs. DOUGLAS. I think one instinctively has preferences. You would not follow through with some vicious act or some act of discrimination. And as I said in my testimony, we have a right to our prejudices. For Heaven's sake, some men like blondes and some like dark-haired women, or short ones or tall ones. Some like girls to wear low heels and some to wear high heels. One is not trying to legislate away prejudices.

But the point is, when a prejudice carries over and affects the living standards of not just a few people—

Mr. BREHM. I am with you 100 percent.

Mrs. DOUGLAS. And in the bill, of course, the bill does not apply, either my bill or the administration bill, to household servants, or to small shops. It only applies to businesses in interstate commerce, and to your large operations.

Mr. BREHM. Again I want to congratulate the lady. I think you have made a splendid statement.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. Mrs. Douglas, the problem that I have been particularly concerned with in the hearings to date, as you may have noticed from the questions I asked Senator Ives, is the practical problem of how any legislation in the civil-rights field can be passed. As you will recall, here in the Eightieth Congress we passed a poll tax bill. And looking back on that action, both when the action was taken by the Democratic Congress which preceded the Eightieth Congress, and by our Congress, I think any action that we did take was a rather cynical action insofar as the enactment of that bill into law is concerned, because it is generally assumed that if it got over to the Senate side, it would run into a filibuster, or would never be brought up for consideration.

Now, in the case of the fair employment practices bill, we have, of course, the same political situation. I think a bill something along the lines of the one we have before us could possibly pass the House. But we do have the problem of gaining sufficient support for our bill from a practical standpoint among the Representatives from the South if we hope eventually to enact it into law. And that is the reason why I have put the question in each case to the witnesses as to, first, whether or not they think the law would be effective in their own State. You have already indicated you think it would be effective in California. And second, whether or not the law would be effective in the Southern States where the major opposition, of course, to such legislation is to be expected for obvious reasons.

I wanted to make that statement particularly so that you, Mr. Chairman, and the other members of the committee can see the reason for the line of questioning. It seems to me that too often in this field, as I think the chairman of our subcommittee indicated quite eloquently in his speech on the floor of the House a few days ago, it is very easy to talk for the purposes of the record and the voters back home about how we oppose discrimination when we know in our own minds that nothing is going to be done about it.

For that reason, I am hopeful that in the consideration of this legislation by this subcommittee, we can hear, as we are hearing, not only from people like the witness today who eloquently expressed the case for antidiscrimination legislation in employment, but from those who have the practical problem, particularly in the Southern States, of putting such legislation into effect, because we are going to need some support there, I am convinced, in order to pass it.

As I say, this is more in the nature of a statement rather than a question, but if you have an observation on that point as to how, frankly, a better selling job, shall we say, on this particular type of legislation can be done where it has to be done, I would be interested.

Mrs. DOUGLAS. I have an observation to make. First of all, as to how this law would work in the South. How did the FEPC work in the South during the war? It would be interesting to know. Of course, the Federal Government program during the war lacked enforcement powers. But may I point out that it has not been necessary to use them in those States where they now have them. It is just something that you have as a stand-by measure but it is not actually used. I think that could be pointed out to the southerners. Then I think in bringing this program on the floor, we ought not to stress the need for FEPC legislation in the South. As a matter of fact, the

Negroes, if my figures are correct, get a better break in the South than they do in the rest of the country.

Mr. POWELL. Surely.

Mrs. DOUGLAS. And Negro leaders will tell you that. That is the point I make with southerners all the time when they say, "Stop pointing to the South." I say, "I am not pointing to the South. We are worried about our part of the country."

I think we ought to be very careful to make this point, and say, "We need this legislation all over the country. We are not pointing the finger at the South."

And we are not. You go into Alabama, for instance. In one of the big steel plants down there, the head of the union in the plant is a Negro. And we can give you instance after instance of that kind of progress. I think that is the way to present this legislation.

Now, as to the practicality of passing this legislation—this is one of my pet subjects as well as yours, Mr. Nixon—I do not think when both the major parties have promised the American people that they will try to support this kind of legislation they can avoid doing so on the theory that the American people in electing Congress failed to elect enough representatives whose thinking is in line with the party platforms. I do not think that is good enough.

The leadership of both parties is obliged to make good its promises. The initiative must come, of course, from the Democrats, because they are in the majority. The Democrats ought sincerely to try to mobilize their forces. The Republican leadership has the same obligation. And I want to state right here, and I have said it in public and I will say it before the committee, in the Eightieth Congress I would have given all of my energy toward the passing of civil-rights legislation had the leadership chosen to bring it out and force it through, both in the House and in the Senate. A half-hearted attempt was made to pass the anti-poll-tax bill. If a proper approach is made now, I believe we can put through civil-rights legislation.

I do not think this issue is partisan, from any point of view.

Now, if both sides of the aisle are trying sincerely to mobilize their forces, we can overcome in the House the 40 to 50 southern votes that we will lose, and in the Senate we can break the filibuster if everybody who has said they are for this legislation will go on the Senate floor and vote for cloture.

I would like to sit down with you and make an analytical study of the votes in the Senate. My feeling is that it can be done. But even if it could not be done, I say to you, Mr. Nixon, a sincere effort ought to be made on the part of those who want to live up to their campaign pledges so that the voting public can see where the weaknesses are in Congress and what Congressmen failed to support their party platforms.

How on earth, otherwise, is the public going to know?

Mr. NIXON. I will say that I certainly agree that simply because there are obstacles in getting legislation passed, that is no reason for not trying to get what we consider to be good legislation passed. On the other hand, I think that any objective analysis of what has happened during the past few years, when both party platforms have had at least some sort of statement on civil rights, would indicate that there has been on this issue a great amount of talk and very little—

Mr. BREHM. Light?

Mr. NIXON. Well, light and honest action.

Mrs. DOUGLAS. And very little sincerity to do anything about it.

Mr. NIXON. You mentioned the Republican Party platform on civil rights. But you will recall that in the Democratic Convention the civil-rights plank was adopted by an extremely close vote.

Mrs. DOUGLAS. We feel that that fight is a plus on our side. We were willing to destroy the Democratic Party on that issue. The grass roots, at least, supported us.

Mr. NIXON. But I wanted to indicate that problem to you.

Mrs. DOUGLAS. That is right, and you have. Any time all the Representatives stand up on the other side of the aisle—your side, Mr. Nixon—we could wipe out the small number of southerners who vote against us. There is a hard core of Democrats from the west coast and the middle of the country and the east coast who also vote right on this issue. I mean, in the last Congress it was about 70. This time it will be—I do not know—100, or something like that. Now, if the Republicans will stand up with us against that small group of people from the South, we would lose their votes in the House, and still carry civil-rights legislation. I think I am right in my analysis. I am not absolutely sure, but I would think that the same thing could happen in the Senate.

Mr. BREHM. I believe so.

Mr. NIXON. You believe it is the responsibility of Democratic leadership in both the Senate and the House to bring this to action at the earliest possible time?

Mrs. DOUGLAS. And it is the responsibility of the Republican leadership, Mr. Nixon, to fight just as hard as the Democrats.

Mr. NIXON. But we cannot do anything until you bring it to the floor.

Mrs. DOUGLAS. That is right.

Mr. POWELL. Thank you.

I would like to say that the committee is going to continue to sit to hear Representative Sabath now, and then Senator Humphrey and Representatives Javits, Davenport, Klein, and Biemiller.

Congressman Sabath?

STATEMENT OF HON. ADOLPH J. SABATH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. SABATH. Mr. Chairman and gentleman of the committee, I am indeed pleased that I am able to appear before you and urge favorable action upon the bill. I regret that I have been unable to hear questions propounded by Mr. Nixon to Mrs. Douglas, but I feel that she has answered satisfactorily, at least, to him and to the committee, questions that have been asked and propounded to her.

I do not know whether I have given my name. My name is Adolph J. Sabath. I am a Member of Congress, and this is my 43d year of service. And during all that time, I have tried to be of service to the laboring people, fighting for what I believe is fair and just.

I presume you have heard a great deal of evidence yesterday, and I am satisfied that the evidence given by Mrs. Douglas should convince you that we should try to bring about this much needed legislation.

I do not have to repeat that both parties have agreed to it and endorsed it in their conventions and platforms, favoring this legislation.

As chairman of the Rules Committee in the Seventy-ninth Congress, I have tried to get a rule on the bill, but unfortunately I have been unsuccessful. But I hope at this time there will be no such action refused after your committee will favorably report this bill. That is due to the change in the rules that was brought about. So the bill, if and when it is reported by you—and I hope it will be soon—will reach the floor.

In view of having the confidence in the majority of the membership, I am satisfied that favorable action will be had at this session of Congress. I realize that some of my colleagues on my side have been unfriendly and antagonistic to this legislation, but by the preponderance of evidence, I think we have enough Republicans who are progressive and who have the interests of the American people and the wage earner and are against unfair practice, and will join with others on our side and bring about action that the Nation and both parties are in favor of.

I regret it is late. I have a very important matter to take up at 12 o'clock, namely the reorganization of the State Department; and I shall have to be on the floor. So I must deprive myself of the pleasure of saying a few things that I did desire to say, but I notice that several other Members who are just as much interested as I am, wish to be heard, and even some gentlemen from the other side, I understand, desire to be heard.

So I will ask unanimous consent that I may have the privilege to insert in the hearings a statement that I did contemplate to make on this matter.

Mr. POWELL. Without objection, it is so ordered.
(The statement referred to is as follows:)

STATEMENT OF HON. ADOLPH J. SABATH, M. C., ON FAIR EMPLOYMENT PRACTICE
LEGISLATION

Mr. Chairman and gentlemen, for the past 100 years efforts have been made to improve race relations in the United States, sometimes by formal legislative enactment, and at others through the activities of citizens organizations. The legislative enactments have been both statutory and constitutional. During the Civil War, for example, amendments were added to the Federal Constitution designed to emancipate the Negro legally by establishing his freedom and his status as a citizen, and insofar as possible by formal enactment, to insure him the right to vote. Statutory enactments appear on the statute books in many States today, and those relating to the civil service and to public-school teachers date back well into the nineteenth century.

It cannot be too strongly emphasized that the problem of prejudice and discrimination are country-wide. In discussing them no State, section, or community should feel that it is being singled out for criticism. The problem varies considerably from one section of the country to another, but unfortunately is everywhere present in some form. It varies because the composition of the minority groups vary from place to place.

While the Jews, colored, and foreign born are the most numerous, minority groups in wide variety exist in sections, States, and cities throughout the country. All are the victims of unjustified local prejudice, oftentimes of actual discrimination.

Unfortunately this local prejudice and actual discrimination existed in the past as well as in the present. For example, in 1790 one of the most outstanding Americans of his day, Ben Franklin, resented and opposed the advent and influx of Europeans to America. A commission was appointed to investigate the situation, and they reported that they "viewed with alarm the great influx of unde-

strables who have come to America and who are presently filling up our penal institutions." All this notwithstanding that our population then was a little over 8,000,000 people in all. Nearly all of those who were desirous of entering the United States in those days were Englishmen, Scotchmen, and Welshmen, and not of the so-called newer immigrants who came here in the middle of the nineteenth century.

But it must be conceded that the prejudice and fear which the early Benjamin Franklin entertained was unjustified and unwarranted because most of these newcomers to America have made good and have aided in building up our Nation—increasing our production and helping to develop all of our resources, to the end that today America is the most prosperous country in the world. A great deal of the credit for our present prosperity is due solely to these brave immigrants. Therefore I feel that the prejudice that we aim to eliminate by this legislation is something that does exist, notwithstanding the fear expressed by many employers that it will force employers to employ people whose rights we are trying to safeguard.

Since 1941 there has been considerable interest in fair employment practice and related problems at the Federal level. The Federal Government, as a matter of fact, pioneered in the fair employment practice field. By an Executive order of June 25, 1941, the President established the Committee on Fair Employment Practice within the Office of Production Management. Its organizational history was complicated by many changes, but its purpose remained the same throughout—namely, to promote the fullest utilization of manpower and to eliminate discriminatory employment practices. This order provided that all agencies of the Government of the United States shall include in all contracts a provision obligating the contractor not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin. Thus was established the pattern on which much of the legislation in State and local units was subsequently based. This committee was continued in operation throughout the war period, until in July 1945 the Congress discontinued its appropriation. Request was made by the President that such a body be established by law on a permanent basis, but to date there is no such permanent body. In 1948 the President's Committee on Civil Rights recommended that a Federal Fair Employment Practice Act be enacted prohibiting all forms of discrimination in private employment, based on race, color, creed, or national origin. Since the Federal Act would not reach activities which do not affect interstate commerce, the committee also recommended the enactment by the States of similar laws. These recommendations and others were incorporated into the President's civil rights program which he has several times urged upon Congress for adoption. The President has continued to press his demands for the enactment of the program, proceeding meanwhile to use his powers to realize some of its objectives, and rightly so. On July 26, 1948, he issued two Executive orders, one establishing a Fair Employment Practice System for Federal Employment, the other establishing a President's Committee on Equality of Treatment and Opportunity in the Armed Services.

There can be little quarrel with FEP legislation, for the practical working of democracy requires that no person possessing educational and experience qualifications necessary for doing a particular job should be excluded from consideration for appointment on the basis of purely extraneous matters over which he has no control. It is basic democratic theory that a person shall have opportunity in accordance with his ability and qualifications.

The report of the Committee on Civil Rights created a tremendous public reaction, for reasons that are not clearly apparent. National party platforms of both political parties had for years declared for the goals which the committee report sought to implement and translate into practice. The new party platforms for 1948 were no exception. With reference to discriminatory practices in education, this report stated that "the public cannot long tolerate practices by private educational institutions which are seriously conflicting with the patterns of democratic life. Further, in order that this mandate of public obligation shall have equal force everywhere, and not lead merely to pronouncements by individual colleges, the invoking of legislation along lines of the proposed legislation against discrimination in New York, seems the logical way of advance." The Commission concludes that to assure a universal and equal regard for a policy of nondiscrimination the legal method becomes both fair and practical.

Prejudice of course cannot be eliminated by legislative act or edict but discrimination—the outward social manifestation of prejudice, can be corrected by

legislation and perhaps only by legislation. The record of the work performed by enforcement agencies in half a dozen States seems to indicate clearly that these laws can be made to produce results. Some say that education as offered in the public schools of the Nation presents a dynamic approach to the problem of inter-group relations, however this is fallacious. It is unfortunately true that the official records do not bear out the claim that education as now organized and carried on has made any substantial progress in eliminating either prejudice or discrimination. In the aggregate, stupendous sums of money have been spent on public education in this country. Although a constantly increasing percentage of the adult population is the product of this training, both prejudice and discrimination are very much in evidence. FEP legislation does work. There is ample evidence to support this by viewing the experience of the several States with laws in operation on this vital subject.

Our very heritage was founded upon principles of conduct which must still be preserved. But we can do this only by readapting them to modern economic realities. "Life, liberty, and the pursuit of happiness," in a frontier economy meant that the nonconformist might move into the wilderness and make himself a new homestead. However, in a modern industrial society, life itself has become dependent upon the individual finding suitable employment. His happiness depends upon his ability to utilize his capacities in rewarding and productive employment under favorable working conditions. To those who have been discriminated against in seeking or holding such employment because of their race, color, or religion, "life, liberty, and the pursuit of happiness," mean absolutely nothing.

Witness the last war where soldiers of every race and creed fought side by side to make victory possible. Duty and patriotism knew no artificial barriers. There were no minority groups in terms of sacrifice. This legislation represents a constructive approach to the fulfillment of the democratic ideals for which men sacrificed so much. It places our democracy on record as striving to fulfill the ideals of equality of opportunity upon which it was founded. Education and legislation is the only effective panacea for the discrimination evil that exists today. The bill under consideration by this committee (H. R. 4453) is certainly a step in the right direction, and I strongly urge that this committee report the bill out in the very near future. After 43 years in Congress, I would like nothing more than to be able to vote on and witness the passing of the present legislation. It is very close to my heart.

In conclusion, may I call your attention to the fact that the very last request our great and revered President Franklin D. Roosevelt made was one wherein he urged me to endeavor to obtain a rule making possible the adoption of a resolution establishing a Federal Fair Employment law. Not only that, but on the day of his funeral, President Truman assured me, and has demonstrated beyond a doubt, that it is also his aim and intention to bring about this legislation.

Mr. SABATH. With that, I thank the committee for hearing me briefly, and I hope that favorable action will be had without great delay, because time is running, and if we do not act speedily, we are liable again to find ourselves in the position where the legislation might be delayed until the next session of Congress, which I would regret exceedingly.

I think both parties at the 1944 and 1948 conventions had planks in their platforms, endorsing this legislation. I feel we should act, and hope you will act favorably.

Thank you, gentlemen.

Mr. POWELL. Thank you, Congressman.

Mr. Nixon?

Mr. NIXON. No questions.

Mr. POWELL. Senator Humphrey?

Senator, I am sorry that some of the members had to leave, but we shall hear you.

Senator HUMPHREY. Thank you very much, Mr. Chairman. I am sorry that some of your members had to leave, too. I have been dashing in and out of subcommittee meetings myself this morning.

**TESTIMONY OF HON. HUBERT H. HUMPHREY, A UNITED STATES
SENATOR FROM THE STATE OF MINNESOTA**

Senator HUMPHREY. I appreciate——

Mr. POWELL. Could I just interrupt a minute? Representative Nixon has an engagement at 12 o'clock, and he has a burning question in his heart that he would like to ask, which should come normally at the end of your testimony, and he is asking for unanimous consent from your side to ask a question now.

Senator HUMPHREY. I would be delighted to receive a question from Congressman Nixon. It is very nice to meet you, too, Congressman.

Mr. NIXON. Senator, the problem that I think we are all confronted with in this field of civil-rights legislation is a very practical one in which you have had considerable experience, particularly in the last Democratic convention, and that is that of getting action as well as getting a lot of very good declarations about how we personally feel about civil-rights legislation.

Now, my question is this. Do you think that the bill which we have before us, H. R. 4453, either in its present form or incorporating substantially the provisions in that bill, could be acted upon favorably by the Senate, having in mind the present make-up of the Senate from a political standpoint? I recognize that is a question which probably should be put to Drew Pearson, or somebody who can predict. But if you would take the predictor's chair for a moment, I would appreciate your comment on that point, because it seems to me that what we should try to do here is to approve finally a bill that has a reasonable chance for passage, rather than to work for days on a bill simply for political purposes and to put that bill up knowing very well that there is no chance for its passage. I would appreciate any comment you might have on that point.

Senator HUMPHREY. I must say first, Congressman, you prefaced part of your remarks by referring to my prophetic knowledge, or ability that I might have, and I have none. I recognize the difficulty, however, of civil-rights legislation in the Senate.

I concur in the expression and the points of the House bill, as I do in those that were presented by Senator Ives in the Senate. The bills are not too far apart. It is really a matter of detail.

Now, with respect to your question as to whether or not this would be adopted by the United States Senate. Frankly, Congressman, it seems to me that civil-rights legislation in the Senate can pass. I know it should pass. And I say it can pass. Here is why I say that. Many of my friends and your friends continuously lay the blame for the lack of civil-rights legislation upon our southern colleagues. I do not want to make any comments about the number of southern Congressmen in the House, but I think I can speak with some accuracy as to the number of southern Senators in the Senate, that is, the number there that represent States where there is considerable feeling in opposition to civil-rights legislation.

The maximum number would be 22 Senators who have in some way or another in the last few years expressed themselves unalterably opposed to civil-rights legislation such as is embodied in House bill 4453.

Now, this is not a party matter. We have had a bipartisan foreign policy that many people have pointed to with pride. If there is any one field in American domestic policy in which there ought to be bipartisan support, which ought to be lifted out of what I call just sheer party politics for the purpose of vote getting and political activity, it is this field of civil rights.

I feel very deeply that this is a matter of arithmetic. There are enough members of the Democratic Party who are not southern Democrats, and there are enough members of the Republican Party, which party unanimously endorsed legislation of this nature, and which party in some areas of this country has done enviable work in the field of civil-rights legislation, that if you add the northern Democrats, and the border Democrats, and the western Democrats, and if you take the Republican votes that are in the Senate, there are enough votes, No. 1, to break a filibuster and, No. 2, to pass the legislation.

It is a matter of whether or not we have men who are not only good men, but who are men of good will, with the will to carry through on their campaign commitments.

Every Democrat who subscribed to the platform adopted at Philadelphia, every Democrat who campaigned for Harry S. Truman, knew exactly where the President stood on civil-rights legislation. Every Republican who campaigned for the Governor of the State of New York, the Honorable Thomas Dewey, knew that New York had a State fair employment practices act that he pointed to with justifiable pride. And many a Democrat was deeply concerned lest the Republican platform be too attractive to some folks; therefore, they were perfectly willing to go along with a strong Democratic platform to offset the attraction the Republican platform might have in civil rights.

Now, that was done during the campaign, and I am not one of those who believes that during the campaign you talk one way and when you get down here in Congress you vote another way. I committed myself to certain things in the Democratic platform. I endorsed that platform. I campaigned on it.

Many of the men who are serving in the United States Senate who are Republicans campaigned on the basis of the Republican platform. They believed in it; they are fighting for it over in the United States Senate. And that is an honest, good, clean-cut fight.

Now, I want to see both of those factions in the Senate stand up and admit very candidly that it is not our southern brethren that are blocking civil-rights legislation. It is, if you please, the indifference and the apathy and at times, shall we say, just the politics of our northern, western, and eastern brethren which is blocking civil-rights legislation. We cannot lay this at the doorstep of Alabama and Mississippi. They do not have enough Congressmen; they do not even have enough Senators. We can lay this at the doorstep of New York, Minnesota, California, Wyoming, Nebraska, and the other States in the Union.

Now, that is my answer to you.

Mr. Nixon. Then under the circumstances, since you think from a practical standpoint the votes should be available for supporting such legislation, and also, I might say, I agree with you on this point, that it should be a bipartisan concern to support such legislation; do you feel, then, that the leadership in both the House and the Senate should bring such legislation to the floor at the earliest possible time?

Senator HUMPHREY. I surely do, Congressman. I do not believe in what we call priorities. I said that when I first came down here. I am rather new at this whole business, as you well know. I feel that all of these legislative matters are vital and important, just as Federal aid to education, housing, and all of these matters. But I am not one of those who believes that we could constantly be putting off civil rights because it is going to cause a fight. If we are going to do that, let us put off the reciprocal trade matter. There is going to be a fight on that. Let us put off the Atlantic Pact. There is going to be a fight on that.

We put off for years Federal aid to education, and we had a fight on that one. We have fights and political battles on public housing. I call on the leadership of my party, and I want to say to my party, the Democratic Party, they cannot kid the American people. They are in a majority in the Congress, and it does not do any good to go around pointing the finger at the Republicans all the time. The American people believe that the Democratic Party has a majority. Let us say so if we do not have a majority. But we say we have a majority. We have a President, and we have a majority in the Senate and a majority in the House. All I ask of my colleagues is that they not relish the difficulties that the Democratic Party is having in terms of civil rights, but that they rise above this pettiness that we see at times and say: "We are perfectly willing to try to get this issue out of the narrow confines of precinct and ward politics, and let us take it up here on the high plateau where it belongs."

That is what we are talking about, human rights in the world. Every time we fight the Communists, we are saying we have to join together. We are all Americans; we all believe in freedom. Now, I say to you, Congressman, that we have to have exactly the same point of view and the same philosophy in terms of civil-rights legislation.

Mr. NIXON. I do not intend, and have not intended in my remarks to indicate the political difficulties that we both find ourselves in.

Senator HUMPHREY. No. I know that.

Mr. NIXON. But I think as you have well indicated in your remarks now, this bipartisan effort cannot be initiated until the leadership on your side puts this legislation on the agenda. That is the case at the present time, is it not?

Senator HUMPHREY. I would say that is a true statement. I would like to make this qualifying remark, however, or this qualification, that I have watched the great and able leadership of the Republican minority in the Senate, and if they will be as anxious and as militant and let me say as clever and as astute in using their good offices to get this legislation up before the Senate as they have at times to block some other legislation or to get some other legislation up, I think that possibly the action may produce results that we want. In other words, Congressman, it is perfectly true that the Republican Party has a stake in this legislation, and the Democratic Party has. But a greater stake is in the American people. And when you look over the States which I will reveal in the testimony, you will find that some of the strongest proponents of civil-rights legislation come from the Republican Party. In other areas, some of the strongest proponents have come from the Democratic Party. And I submit to you that both of us have obligations and great obligations.

Right today in the State of Ohio, in the Legislature of Ohio, they are debating fair employment practices. As I am going to point out in other States, civil-rights legislation was passed. In the State of Illinois, a Governor there has been leading the fight, a Democratic Governor, for civil-rights legislation. In my own State of Minnesota, a Republican Governor championed the fair employment practices bill before the legislature. It was not passed. It was defeated. But that is not to his discredit. That is to the discredit of the legislature, and it is to his honor, if you please, that he had the courage to champion it.

Mr. NIXON. Thank you, Senator.

Thank you, Mr. Chairman, for allowing me to question him out of order.

Mr. POWELL. I would just like to summarize personally how I feel about this exchange, and that is this: As a citizen of the United States, I am deeply interested in what happens in the Senate. But as an elected Member of the House of Representatives, it is my duty to absolve myself here of any blame of forestalling this issue or any other issues. And regardless of whether the Senate is going to act on this or not, I as a Member of the House of Representatives feel that we should go ahead.

Mr. NIXON. Yes. With that I agree, with this qualification, that I think we all recognize in the House that whatever we pass in the House does not become law unless we can get support for it in the Senate. I think what we are interested in more than in making our records from a political standpoint good in the House, and, of course, we will do that by supporting such legislation, is the fact that it is more important that we be able in this case actually to accomplish something by getting a piece of legislation that at least has a reasonable chance for passage in both bodies.

Mr. POWELL. Senator Humphrey.

Senator HUMPHREY. Mr. Chairman, I will take the liberty of reading my remarks. And if you wish, of course, you have the right to interrupt, and I stand ready to answer any questions.

When I last appeared before a committee of the Congress in connection with fair employment practices commission legislation, I was the mayor of the city of Minneapolis. I stated at that time that my city was one of the cities in the United States to have adopted an FEPC ordinance. I was proud of the fact that my city took the lead among American communities in acting on the conviction that governing boards have a positive responsibility to assure equality of opportunity for employment to citizens of all races, religions, and national origins.

I pointed out that our ordinance has produced positive results in providing employment opportunities for Negroes. At that time, I pointed out that our fair employment practices ordinance had done an excellent job in seeing to it that qualified workers were hired on the basis of their skills and without any regard to their race, religion, or national origin, and that this practice provided positive benefits to the employers as well as the unions, and certainly provided positive benefits to minority workers and the community as a whole.

I would like just to say there, Mr. Chairman, that we have not had a single court case in the city of Minneapolis under the Fair Employ-

ment Practices Commission ordinance, which has enforcement powers and enforcement teeth. Yet we had an amazing increase in employment opportunities for Negro workers.

At the time of my testimony before the Senate committee of a year ago, I pointed out that for years and years in my city of Minneapolis, we had never had a Negro as a store clerk or a retail-store supervisor, and within a period of 6 months after the passage of the fair employment practices ordinance 75 department stores in Minneapolis and St. Paul, mind you, without an ordinance in St. Paul—it had the effect of opening up employment opportunities in the city of St. Paul—75 of the largest department stores were hiring qualified members of the Negro community, qualified members of minority groups, to work on the floor as clerks and supervisors, to work in their accounting office, or to do any kind of work for which they were qualified.

Mr. Chairman, there was not one word of protest from that community. I do not want it to appear that my community was any less prejudiced than any other. As a matter of fact, prejudice exists in all communities. But the reception was good.

The fears that people had that something would go wrong, that they would lose business, or that there would be disturbances amongst the employees, just never materialized. In fact, great opportunity was opened for hundreds of people.

As a result of our experience, I was convinced then, and I am more convinced now, that our city benefited economically, socially, and morally through the adoption of FEPC legislation. As a result of that legislation, we now have in Minneapolis a very considerable number of people of different groups who have the opportunity and incentive to develop and to utilize their full skills for the community's welfare.

This increased productivity has benefited, and will continue to benefit, the entire community in many ways. One of its effects will be to reduce the expenditures of public funds now required for relief, public-health services, and the correction of delinquency and crime.

Another benefit will be the increased market for the products of other workers and of other business concerns in the community because of the increased buying power which minority workers will gain, and have gained.

A third economic benefit is a higher standard of living enjoyed by minority workers and their families. There are few, if any, whose real interests are served by maintaining discriminatory practices in employment. Our task on behalf of the fair-employment-practices legislation is not only to combat the self-interest of any group but to combat ignorance and apathy, and to combat the failure to see the true self-interest of the entire community is served by using the productive power of all its human resources without discrimination.

I am convinced that legislation against discrimination in employment is proper and is an effective instrument.

Since I last testified in June 1947, however, great progress has been made. I am happy to report that municipal FEPC ordinances now prevail in Cincinnati, Ohio; Chicago, Ill.; Milwaukee, Wis.; Philadelphia, Pa.; and Phoenix, Ariz.; and I am also happy to report that there now is a total of 10 States which have FEPC laws on their statute books. I refer to Connecticut, New Jersey, Indiana, Massa-

chusetts, New York, Wisconsin, New Mexico, Oregon, Rhode Island, and Washington. The eleventh State, Ohio, may still join their ranks, and there is agitation in many more States for such legislation, and this year alone four States—New Mexico, Oregon, Rhode Island, and Washington—passed the State fair-employment-practices laws.

These figures are significant because it means, roughly speaking, that about 60,000,000 people, or more than one-third of the country's population, is already covered by State and local laws. These figures demonstrate that FEPC legislation reflects the basic wishes and aspirations of the American people. Our people, the experience of past years proves, are ready for the expression in law of the basic humanitarian rules for human brotherhood and human equality which they deeply possess and which the American people deeply believe in.

It is true that various municipal and State ordinances which have been passed differ in scope and oftentimes differ in their enforcement procedures. That is to be expected. A people as diverse in experience and background as we are, operating under a federal form of government as we do, tend to legislate on a State and local level in different ways. It can be said, in fact, that this is one of the advantages of our federal form of government. We learn as States from the experience of our sister States, and we learn how to legislate on the national level from the experience of the States.

Mr. Chairman, we learned in unemployment compensation; we learned in old-age assistance by the experience in the laboratories of State governments.

I think you will recall that it was back in the early thirties—in 1930, 1931, and 1932—that Wisconsin, for example, was pioneering in the field of unemployment compensation. The State of New York had pioneered in the field of housing legislation, as well as in social welfare. Let us, for example, point to the experience of Oregon, as that relates particularly to the current problem.

On March 26 of this year the Governor of Oregon signed a new fair-employment-practices law which differed from its previous one in including more rigid enforcement sections. They did that, I am certain, and it is necessary for a Federal Fair Employment Practices Commission law to have within it a stronger enforcement section, because our experience to date shows the tremendous importance of including proper and effective provisions for administration and enforcement in our legislation.

I think we even learned that, Mr. Chairman, under rent control. Without proper enforcement machinery, a law becomes somewhat meaningless and merely a statement of policy.

Unless legislation, for example, is accompanied by effective administrative machinery, both the employers—and I want this to be emphasized—both the employers and the unions are exposed to the possibility of legal prosecution on the basis of complaints which are not well-founded or which could have been readily adjusted by constructive negotiation. In fact, experience has shown that one of the principles served by a Fair Employment Practices Commission is to protect employers and unions against unjustified charges of discrimination.

The records of both the Federal FEPC during the war and the local and State commissions against discrimination and the experience of other States shows that more complaints are dismissed than are

accepted as valid. In other words, there are a number of people who, when they do not get a job, feel that they have been discriminated against, even though there may be no fact of discrimination.

The Federal Fair Employment Practices Committee during the war eliminated 64 percent of all complaints and accepted only 36 percent for adjustment. The existence of a responsible agency should be to investigate and adjust complaints, and to clear up doubts in the minds of minority workers who have reasons to suspect that certain employment practices are discriminatory.

The clearing up of those doubts and the Federal adjustment of valid complaints serves to reduce tensions and to improve intragroup good will. Legislation to prevent discrimination in employment by our States is not new. In fact, during and immediately following the Civil War, you will recall, amendments were added to the Federal Constitution designed to emancipate the American Negro legally by establishing his freedom and his status as a citizen and insofar as possible by formal enactment to insure him the right to vote.

Statutory enactments designed to prevent discrimination in employment began to appear on the statute books in the States at this time. Numerous measures are still on the books, especially those relating to discrimination in civil service and to public school teachers. And these measures date well back into the nineteenth century.

In the past 25 years this trend has been accelerated. The majority of the efforts toward improved race relations, however, have been carried on through private citizens' groups. Many councils on human relations have been formed. As a result, prior to World War II, a considerable number of States had adopted legislation designed to foster improved relations between the races.

Illustrations are to be found in such agencies as the State commissions on interracial relations in Connecticut and Illinois, established in 1943, and in the New Jersey Good Will Commission, established early in 1938. The Library of Congress, I know, can supply your committee with additional data on this score.

By way of summary, it may be noted that discrimination in employment on public-works projects was prohibited in 11 States, and discriminatory practices in work on war contracts by State governments in 6 States. Discrimination in employment in civil service has been and is forbidden in eight States.

In spite of the very successful record that has been established in many of our State and local communities against discrimination in employment, the experiences we have had demonstrate conclusively that local action can never be sufficient or adequate to solve this serious national problem. It cannot be too strongly emphasized in this connection that the problems of discrimination are Nation-wide and country-wide. In discussing them no State, section, or community should feel that it has been singled out for criticism.

Mr. Chairman, I want to make this added remark. A very unfortunate thing has happened in the discussion of civil-rights legislation. There is the feeling somehow or other in this country that all of this legislation is pointed at the Dixie States, the South, Mr. Chairman. I will tell you that many of our southern brethren treat minority groups equally well with our northern brethren. In fact, there are sometimes more job opportunities available in the Southern States

than there are in some of our so-called pious-pronouncement Northern States. And in fact, this discrimination is universal throughout this country.

I have said 101 times that there is no section of America that is without this evil, that every part of America is guilty in terms of some kind of bigotry, some kind of discrimination or social injustice. And we are not just talking about fair employment practices for Negroes, either. We are talking about it for Jews; we are talking about it for Catholics and for Protestants. We are talking about fair employment practices for people. And if we could somehow or other get our mind cleaned to the point that we are not talking particularly about one group, but that we are talking about a humanity and a people, I think we would be a whole lot better off in our deliberations.

The problems, of course, of discrimination vary from one section of the country to the other as the composition of the minority group varies from place to place. It is the responsibility of the National Government through its Congress to establish a basic standard for human rights and practices and for handling the problems of employment. I believe that this is a basic standard of our American society.

Mr. Chairman, I am one of those persons that believe that every American ought to have an equal opportunity. I am not sure that every American is going to make a great gain or achievement from his opportunity, but it is my belief that it is the fundamental task of the Government of the people that is supposed to be managed by the people and to be working for the people to provide them with at least one thing—opportunity. Now, after we have been given the assurances of equal opportunity, then we can be more concerned about security. Without opportunity, there is no liberty, and without liberty there is no opportunity. And security is a byproduct.

We have all the people of the world thinking about the social-welfare legislation that we ought to pass, and I am for much of that social-welfare legislation. But I do not think the purpose of America is to provide social-welfare legislation. The basic purpose of America and of American life is to provide the opportunity for individual advancement so that there is not this great need for the Government at the local and State and Federal levels to engage in these broad public-welfare and social-welfare programs. And I am so deeply committed to this belief that it leads me to say again and again that it is the just prerogative of the Congress of the United States which has the obligation to promote the general welfare and protect the Nation, to pass this fair-employment-practices legislation.

The political expression of human equality and the dignity of man is the great political contribution the United States has given to the world. Our Declaration of Independence, which translates this moral, religious, and humanitarian doctrine into a political instrument, was the vehicle which spread democracy to all the peoples of the world.

I do not want to burden you with this passage about the Declaration of Independence, but just let me make this statement, Mr. Chairman. Too many Americans have the idea that all we need to have is money to gain respect in this world. I think too many Americans are of the opinion that the way to formulate a great positive humanitarian foreign policy is by gifts, loans, and grants. There are good admonitions

that have been quite eternal, that the spirit of the giver is as important as the gift. The fight in this world today is over the control of men's minds, or at least the allegiance of men's minds.

The only trouble is that we are afraid of it. We are afraid to express it. I voted for the Marshall funds. I am one of those who wants to support those broad programs of foreign policy. But I say that we dilute the impact of those foreign-policy measures by any distortion of our domestic policy, a distortion that violates democratic principles.

The best weapon we can have is America.

Now, the denial of employment opportunities to American citizens because of their race, religion, or national origin is a flagrant violation of democratic principles. Mr. Chairman, I think it is high time we started living by a few of these democratic principles. Discrimination such as this is a problem of national morality and requires national action. Discrimination in employment is not a local problem alone. To the extent that such discrimination exists in many parts of the United States, America's role in aspiring to leadership in world affairs is interfered with.

Ralph Waldo Emerson once said:

The peoples of the world cannot hear what we say because what we do keeps dinning in their ears.

I think that slogan should be before every committee of the Congress, particularly the Foreign Affairs Committees. What we say cannot be heard because what we do at times keeps dinning in the ears of the people of the world. We have the responsibility to see to it that our message of action to the peoples of the world is one of democratic action. We must demonstrate by our action and not by our talk alone that democracy and human dignity and equality in employment opportunity are one.

This is not to say that national legislation is to replace local and State laws. On the contrary, it is my understanding that H. R. 4453, which you are discussing, specifically provides that the Federal Commission for Fair Employment Practices may cede jurisdiction to the appropriate local body where the local or State laws are sufficient to carry out standards of equality in employment opportunities.

In other words, Mr. Chairman, I say that any Federal law that we adopt should have within it a provision which states that where a State law that meets certain national standards has been passed or where a local law that meets these national standards has been passed, the jurisdiction should go right down to the State and the local government, because it will be more humanly administered, the people will know the other people, and they will do a better job of administration.

Federal legislation, then, should set the basic national pattern, and local laws may be enacted, or ought to be enacted, to apply the pattern to groups which cannot be appropriately covered by national legislation. Furthermore, State and local governments can and should legislate to raise the standards for their areas above the minimums established by the National Government as far as the social development in those areas permits.

Now, in economic terms, the entire Nation is a single unit. The effective use of our human resources throughout the Nation is essential. The increased productivity which comes from the full use of

our potential skills is vital to our social and economic health. Those areas in which discrimination in employment are the most serious are the ones in which the use of our human resources is the most wasteful.

Now, we are in competition in this world, Mr. Chairman, and I am one of those who believes that you cannot afford to have about 13 million to 15 million American citizens that are denied full political, economic, and social participation. We need talent today. We do not need and we are not going to improve our production just by the color of a man's skin. What we need is skill; what we need is ability. And surely we ought to remember that that is good business. It is uneconomic just to be hiring, you know, your second cousin because your mother-in-law insists upon it.

We need to hire people that have skill and ability, and there are thousands and thousands of people today who have graduated from universities and colleges, mind you, who are intellectually qualified, who are socially qualified, who are physically qualified for good, sound work, in skilled positions, that are being denied that opportunity.

Now, who is injured in that case? Surely the individual affected is injured morally, spiritually, and psychologically. But the business of America is injured. The profit of American business is depleted. The great requirements upon the Nation for protective legislation for social welfare is a cost which is augmented by this discrimination. In fact, we are not even being smart in this country, if you will permit me to say so, by discriminating in employment. We need the best talent that is available on the job every single hour of the day, and I submit to you, Mr. Chairman, we are going to need it in the days to come. We are going to need more of it.

We cannot win the so-called cold war, Mr. Chairman, and we cannot win the battle for peace and security and freedom in this world by going around tying one hand behind our backs, or at least limiting the use of some of our facilities. Since 1941, there has been considerable interest in fair-employment practices and related problems on the Federal level. The Federal Government, as a matter of fact, pioneered in the fair-employment-practices field. By an Executive order of June 25, 1941, the President established the Committee on Fair Employment Practices within the Office of Production Management. Its purpose was to promote the fullest utilization of manpower and to eliminate discriminatory employment practices.

The committee was continued in operation throughout the war period.

Mr. Chairman, where are the complaints about this committee? Here was Federal action; here was Federal action that was being applied at a time in our national history when thousands and thousands of people who had never been in industry before, young men and young women, housewives, if you please, who had never even been associated with the industry pattern, were brought into the factories of America, and I have yet to hear a criticism by a prominent industrialist, by a trade-union, or by a management group of the Federal Fair Employment Practices Committee established by Executive order.

I say to you that when I hear criticisms of what is going to happen under fair-employment-practices legislation I ask you, What did happen when we really had it? I am not one of those that wants to engage in realm of speculation and theory on this. The real test, Mr. Chairman, is what happened when we applied it, and when we applied it, if

you please, at a very critical, emotional, and tense period in the national history of this country.

Now, prior to that, I should have said that the President of the United States has continued to press his demands for an enactment of a civil-rights program and has proceeded pending further congressional action to use the powers of the Presidency to realize his objectives. On July 26, 1948, he issued two Executive orders, one of which established a fair-employment-practices system for Federal employment.

I wish now to direct your attention, Mr. Chairman, to one aspect where I know, or at least I definitely believe, that fair-employment-practices legislation should be immediately applied and can be immediately applied, regardless of what may happen to any legislation that we have before us. I am for the legislation. I want it passed. I want no diminution of my remarks or dilution of them.

Let me give you this area where I think the Federal Government has a prime responsibility to enforce fair-employment practices. The Federal Government in 1948 spent about \$6,100,000,000 in direct expenditures for employment, exclusive of fourth-class postmasters and substitute rural-mail carriers. The Federal Government directly employed in 1948 anywhere from 1,750,000 in the first few months of the year to nearly 2,200,000 people in December. That is a sizable number of people, Mr. Chairman.

In addition, an average of 175,000 persons were employed in this country by private contractors on construction projects which were financed either in whole or in part by Federal funds amounting to about \$1,900,000,000 of which \$1,500,000,000 was Federal funds and \$401,000,000 State funds.

Now, this estimate does not include Federal loans, such as REA-financed projects, or the employment resulting from them.

What am I directing my remarks to? There is a field of employment already in the jobs of 2,200,000 people, where fair-employment practices can be enforced. There is likewise an expenditure on the part of this Government just in the year 1948 of \$6,100,000,000 for the employment of these people. There were 175,000 persons employed by private contractors who were working for the Government.

Now, there is not any reason in the world why the Government of the United States cannot say, just as it does under other actions of the Congress, "if you are going to have a Federal Contract, Mr. Contractor, you are going to have fair-employment practices in your management and in your employment."

Now, I submit to you that if the Military Establishment is to protect the freedom of this country, in the contracts that it lets to employers and contractors, it can insist in those contracts that the freedom of the people that it is supposed to be protecting be protected in employment in the United States.

Furthermore, even though exact data is not available, partial data as a result of the Walsh-Healey Public Contracts Act is available, which provides for the inclusion of stipulations with regard to pay, hours, and working conditions in Federal contracts. The estimate by the Public Contracts Division of the Department of Labor is that contracts awarded under the Walsh-Healey Act during 1940 amounted to \$2,900,000,000. This figure includes noncontract expenditures.

Contracts for less than \$10,000 and contracts for construction, research, agriculture, and other perishable products and secret and confidential projects are not included, so that that data figure probably constitutes substantially less than half of all the Federal projects of goods and services from American business.

In other words, \$2,000,000,000 of construction contracts for goods and construction is about 50 percent of what we are actually doing, because under the Walsh-Healey Act and under this Department of Labor Bureau, the atomic energy plants are not included, for example. And when we build these plants, Mr. Chairman, we can insist, and we ought to insist by congressional statute, the fair employment practices provisions be included in the awarding of the contracts.

The volume of expenditures estimated by the Division of Public Contracts results in the direct employment of approximately 550,000 people. However, for most employers, Government contracts constitute only a small portion of their business. Consequently, the Public Contracts Division estimated in 1941—and this is the last available figure—that 5,000,000 persons were affected by the act during that fiscal year. No estimates have been made since then, however.

Sufficient data are not available to permit a total estimate of State and local employment arising from Federal-State joint programs and other grants-in-aid programs financed either in part or entirely by the Federal funds. For example, there is the Federal Highway Act. Here is an area again where vast amounts of Federal funds are granted for the construction of a great network of Federal highways, with State cooperation.

I submit to you, Mr. Chairman, that in that kind of act, we should have requirements for fair-employment practices all the way down the line and, of course, that should be enforced by a Fair Employment Practices Commission.

Federal grants-in-aid amount to \$1,500,000,000 in the fiscal year of 1948, and nearly \$2,000,000,000 in the fiscal year of 1949. Much of these funds were for individual beneficiaries, such as recipients of public assistance. Of the funds which go into administrative expenses, some are used for pay rolls, at the State level. But a considerable amount trickles down to county and local levels.

After consulting with the staff members and the agencies which are most concerned with Federal-aid programs, it is my estimate that outside of the field of construction, where you had over 500,000 people involved, there are 2,000,000 persons in the employ of State and local governments who are paid in part or entirely from Federal funds. That is 700,000 there. Then add to that 2,200,000 Federal employees, and add to that another 175,000 people, which are by direct public construction, and you have a sizable number of American citizens employed by State, local, and Federal Governments, where Federal funds are directly involved.

I give you these facts, Mr. Chairman. National fair-employment legislation in my mind is mandatory. It is mandatory for economic and social and humanitarian and political reasons. Legislation will make it possible for minority workers to gain for themselves and their children education and training which will enable them to develop fully their potential skills.

Furthermore, the day-to-day contacts between the members of different races, of religions, and ethnic and national groups in employment are the best possible device for building mutual understanding respecting good will. It is through this kind of educational process that we will break down these false and vicious stereotypes which have grown up in our society because of the limited and unnatural status of intergroup contacts.

Many, many times, impassioned pleas have been made for trade between the nations. Those pleas have been based not only upon the economic benefits, Mr. Chairman, that are derived from trade between the nations, but more so upon the fact that we have said the way to maintain peace in this world is to get to know our neighbors. And the only way that we can know our neighbors is through trade and commerce, or at least one of the main ways to know our neighbors is through trade and commerce, business activity, economic activity, and cultural activity between the nations.

I submit, Mr. Chairman, that you can apply that international principle of trade between the nations which promotes international good will and understanding to economic opportunity in employment in America where men and women of different races, groups, and nationalities get to know each other and learn about each other and find out that some of the stereotypes which have been so often placed before the American people are false, and that they are not only false, but they are iniquitous in the effect that they have upon American life.

This increase in personal acquaintance with members of other groups will lead us to treat all of our fellow men as individuals, and will teach us the truth of Mark Twain's observation:

If a fellow is a human being, he can't be any worse.

Speaking in terms of ethics, our conscience in America has become corroded and encrusted with a bitter feeling of guilt because we profess a belief in justice and equality of opportunity, but we practice injustice all too often and discrimination against the members of minority racial, religious, and national groups, in every one of these United States. The outlawing of discrimination in employment by effective legislation is a major step toward lifting this burden of guilt from the American conscience. It is a step that should be taken in every city and every State and by the Federal Government as a clear and unequivocal statement of national policy.

The enactment of this legislation by the Congress would represent a long stride toward the solution of the American dilemma by bringing our practices into harmony with those high principles of justice and equality of opportunity to which we all subscribe.

Finally, I want to emphasize the intimate interdependence between the solution of our human relations problems in our own communities and within our own national boundaries, and our major human task of bringing sane and decent and peaceful relations between the peoples of the world. If we are going to export democracy, we had better get cooled off before the mass production of it here at home. You cannot export something that you are short on, Mr. Chairman. And if we are going to export the ideas of democracy, the philosophy of democracy, and the spiritual qualities of democracy, we had better be tooled up for mass production of that product right here at the domestic level.

We must deal with justice and mutual respect and good will with our neighbors if we are to qualify as decent citizens of the world.

I am very grateful, Mr. Chairman, for the opportunity to testify on this important piece of legislation, and I encourage the House of Representatives to lend the way. Let us not be worrying about which House is going to act on this first. Somebody has to lead. The world needs leadership today, and so does the Congress, by the way.

The House of Representatives has the chance to give leadership, and it is in the beginnings that we have importance. The beginnings are more important than the endings, because if you do not have the beginning, Mr. Chairman, you never get any of the endings.

This legislation has always been tossed back and forth on the basis of, well, one House would not enact it because the other House for sure was going to kill it.

Now, Mr. Chairman, we do not get things done in America that way. We have a bicameral system of government in our legislative process. But leadership on legislation oftentimes rests in the House of Representatives; oftentimes it rests in the Senate. I hope that there will always be healthy competition for that leadership. But I can assure you that today the American people are not particularly concerned which one of us is going to act first. They just want to be sure we act. And I am not going to be able to go home to my constituents, and I do not think I can say honestly to the people of this Nation, those that I meet and talk to, that we have done our job until we have made every effort, every effort that it is humanly possible to make, to enact this legislation.

The time is late, Mr. Chairman. We are not going to gain by waiting. We gain only by trying. And you would be surprised. Sometimes in just the trying, the walls of Jericho, which are the walls of our own indifference and prejudice, just come "tumbling down." And I am of the suspicion that these walls are a little bit jittery right now. If they are not jittery in Congress, I can assure you that when we go home in the summertime, if we ever make it, we will find out that some people are going to be asking us some embarrassing questions, and I want to be able to give them some honest answers.

Thank you very much.

Mr. POWELL. I want to thank the Senator for his very excellent presentation and to concur with him wholeheartedly in the fact that the House of Representatives should never wait for the Senate to do anything that we feel is right, just as the Senate did not wait for us on national aid to education, which never came up in the House in the last Congress, but by virtue of the fact that the Senate did enact it, it will come up in the House this time.

Senator HUMPHREY. That is right.

Mr. POWELL. And I feel here that we should move ahead. This committee is going to be ready to report this back to our full committee at the end of this month, and Chairman Lesinski has promised that it will immediately be brought before the full committee, and if we get it out of full committee and we go before the Rules Committee and the Rules Committee is not going to give us a rule, we will just use our new rule and bring it up on the floor in 21 days.

Senator HUMPHREY. Mr. Chairman, may I say this, that the American people look upon the House of Representatives as their representative body. The Congressmen are elected from the districts on the basis of population proportion. In the Senate, it is two Senators from each State, regardless of the size of the State, the population of the State, its wealth, or anything else. It is one of our great compromises in American Government.

But the House of Representatives, by and large, is the voice of the American people. It is the people's body. And whether the Senate ever acts on this or not, I think it would be a resounding challenge to the world if the House of Representatives passed this legislation and said to the people of America and to the people of the world, "We are for fair employment practices legislation," and then the Senate will be on the spot, as we say, and I am perfectly willing, as I said earlier, to join hands in wholesome fellowship with every good Republican and Democrat in the Senate of the United States and try to get this legislation across.

Thank you.

Mr. POWELL. Thank you.

The committee stands adjourned until 9:45 tomorrow morning.

(Whereupon, at 12:45 p. m., an adjournment was taken until the following day, Thursday, May 12, 1949, at 9:45 a. m.)

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

THURSDAY, MAY 12, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 9:45 a. m., Hon. Adam C. Powell, Jr. (chairman), presiding.

Mr. POWELL. The committee will come to order.

Our first witness is Representative Biemiller, of Wisconsin, and there are three or four other Members of Congress whose testimony could not be included yesterday. We will hear them today.

TESTIMONY OF HON. ANDREW J. BIEMILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. BIEMILLER. Mr. Chairman and members of the committee, I am Andrew J. Biemiller, representing the Fifth District of Wisconsin. May I say that this is a most auspicious day in the eyes of those of us who are interested in fighting discrimination on racial or religious grounds because of the splendid action which the Air Force has taken within the last 24 hours. I am delighted to see that the Air Force is carrying out the intent of President Truman's Executive order to ban discrimination in the armed forces, and I am hopeful that the Army will follow through in similar vein.

I also had the pleasure about 6 weeks ago of being on the carrier *Franklin D. Roosevelt*, and noted there that there had been progress made in assimilating people into the work of the Navy purely on the basis of their abilities and with no discrimination, and I hope that additional progress will be made in that respect.

I would also like to call the attention of the committee to the fact that my own State has just passed, and the Governor has signed, a bill barring discrimination in the National Guard of the State of Wisconsin, which I think is further proof that progress has been made.

I am in favor of the passage of the present bill because of my deep conviction that our American democracy means freedom of opportunity. It was my privilege to be one of the sponsors of the civil-rights plank which was adopted at the 1948 Democratic national convention. That plank reads:

We again state our belief that racial and religious minorities must have the right to live, the right to work, the right to vote, and the full and equal protection of the laws on a basis of equality with all citizens as guaranteed by the

Constitution. We highly commend President Truman for his courageous stand on the issue of civil rights. We call upon the Congress to support our President in guaranteeing these basic and fundamental rights:

- (1) The right of full and equal political participation.
- (2) The right to equal opportunity of employment.
- (3) The right of security of person.
- (4) The right of equal treatment in the service and defense of our Nation.

This bill carries out one of the provisions of that plank, and I sincerely hope it will be supported by all the members of my party. Likewise, the Republican platform in 1948 called for a strong civil-rights program, and I believe the members of the minorities should likewise support the pending bill.

If we are to take seriously the religious and political principles to which most of us pay lip service, then certainly there should be no discrimination in employment because of race, creed, or color. During most of the war, I was a special assistant to the vice chairman for labor of the War Production Board. My work took me, from time to time, close to the activities of the wartime FEPC. I believe the FEPC did immeasurable good, both by increasing the morale of minorities and in stimulating production.

I vividly recall the time I presided over a conference of management, labor, and Government officials in the Kaiser shipyards early in the war, when demands were made that Negroes be barred from that yard. As a result of that conference, Negroes were given full employment rights, and they made an admirable efficiency record in that shipyard, as in all other plants where they worked. Numerous management officials have so testified.

In my own city, certain corporations would not employ Negroes at the beginning of the war. As a result of prodding by the FEPC, these policies were dropped, and today Negroes are employed on the basis of ability in many plants in which they previously could not find employment. I am proud that both my city and State have passed FEPC legislation. I regret that these laws are not as strong as I should like to see them, but the convictions about people have been put into legislation.

The question of equality of opportunity in employment is not peculiar to any one section of the country. Discrimination has reared its ugly head everywhere, right in our own back yard as well as in distant States. None of us can dodge the responsibility to translate democracy and Christian principles into legislative enactment.

Modern industrial society, more and more dominated by great aggregations of capital, which pay no attention to State lines, requires National as well as State and local action.

May I also briefly remind the committee of the impact of this question upon our international relations? The great majority of the peoples of the world are colored. We are attempting to persuade them of the superiority of our democratic system over the dictatorship of the Soviets. The whole world watches America as no nation has ever been watched in history. Actions are needed as well as words.

The passage of FEPC legislation would be a clarion call to the people of the entire world that we mean what we say and that our land truly is the land of freedom of opportunity for all, regardless of race, creed, or color.

Mr. Chairman, I hope your subcommittee will recommend this legislation and the full committee will bring it to the floor and that we

will have an opportunity to pass this bill during the Eighty-first Congress.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. I do not have any questions, Mr. Chairman.

Mr. POWELL. Thank you very much, Mr. Biemiller.

Mr. BIEMILLER. Thank you, Mr. Chairman.

Mr. POWELL. Representative Javits.

TESTIMONY OF HON. JACOB K. JAVITS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. JAVITS. Mr. Chairman, I would like to join first with my colleague, Mr. Biemiller, in expressing deep gratification that the Air Force took the action which it did today. I think that is really suiting action to words in the sense that there has been a nonsegregation policy announced by the President and, indeed, announced by the Secretary of Defense. But here the Air Force by the deactivation of the fighter wing composed of Negro pilots and specialists and their redistribution among all-white units, will actually be carrying out a nonsegregation policy.

I think all of us who advocate this legislation feel that it will be very successful, that the service will be helped, that the individuals will perform better than they did before, and, of course, that will be an eloquent argument for this bill, too, and for similar legislation.

I introduced a bill myself very early in the session, H. R. 192, as a cosponsor of FEPC legislation. It is essentially in the same form as the bill before the committee.

I would like, Mr. Chairman, to submit my statement for the record with respect to the essential points I wanted to emphasize before the committee and refer to them very briefly and then go on to another matter which I think is of extreme importance to us in this legislation.

I made two points in my statement, first, that the great pressure with respect to this kind of legislation would come in the event of a depression, and I pointed, as a matter of real importance, to the experience in Great Britain, where the people took a very austere food regimen for themselves because every one shared equally. The genius of Lord Woolton, the food administrator during the war in Great Britain, was that he saw to it that everyone, rich and poor, those in Government, those in every kind of occupation, shared the same privation. If there is the tension in a domestic depression, there may be an effort to find scapegoats, and the effort may be directed along the lines of seeking scapegoats among minorities. By taking time by the forelock, as we would be doing in passing this legislation now, we are giving ourselves additional insulation against the grave strains with respect to minorities which are strains on the whole fabric of our constitutional system which we may have if we do get a depression. We devoutly pray we do not. But it is one of the same reasons that we have an Army and Navy. We pray there will not be a war, but we prepare ourselves because there may be.

The second point that I have made, which I reiterate here and which I would like to underline, because I a member of the House Committee on Foreign Affairs, is with relation to the attitude toward us of the great majority of nations of the world on this subject. Of

course, the point has been made clear that a great part of the world is inhabited by colored races. I had the Brookings Institution check the figures for me, and they came up with a figure of 60 percent of the world's population which is colored, and hence is conscious of this problem. Certainly the situation in Asia and in Indonesia is a grave indication to us that this problem means a lot to the world.

I want to emphasize one other thing in that respect, and that is that this problem is actually being used as propaganda. The Soviet propaganda line daily uses as the biggest single argument against the validity of American democracy, the discrimination and segregation which is practiced in wide areas of the United States, and some witnesses have said practically throughout the United States. I would hope that that it not so. But still it is wide enough so that it can be taken as a national problem.

The Soviet is constantly able to use that argument. Whenever it gets into a really bad jam and it or its satellites have done something that is completely inexcusable—a Mindszenty trial, let us say; or the trial of the Protestant ministers in Bulgaria, or Berlin blockade, or some other action that is just beyond understanding by western democratic standards—Soviet broadcasters can always get on the air and just blast us on this question of inequality, discrimination, and segregation in our country, and charge that our protestations of democracy and equality and the decency of man to man is insincere and cynical because we do not practice it at least with respect to 10 percent of our population.

We have there not only a psychological argument but something that is being used against us every day, and very potently, because it is hard to refute. You have to juxtapose to it the 95 percent of the things about America which are sound and good and consistent and entirely sincere, but that percent, whatever it is, which represents this area, we are just wrong about, and this legislation is designed to seek to right that wrong.

I would now like to address myself to a point which was made by my colleague, Mr. Nixon, a member of this committee, and that is, can we get an FEPC bill passed?

I think, if I may say so to my colleague, that it is a very astute question and one properly asked of Congressional witnesses. The other things that we talk about, many witnesses can testify to. But here is one subject that we ought to be best posted on. And I think it is a very useful thing to take counsel with each other. We have diverse parties and diverse views politically, yet we agree upon this subject.

I think an FEPC bill can be passed, and I think it can be passed in both the House and the Senate. But I think it needs yet another coalition. We have heard—and I do not say this invidiously—a lot about coalitions of ultraconservative Republicans and Democrats. And I say, I am not commenting on or speaking of the truth or untruth of that statement, but it is a fact that coalitions do take form on the floor of the House and on the floor of the Senate for legislation in which such members believe.

Now, civil rights legislation can be effected by a liberal and progressive coalition. I am using the term which describes men of the same mind on one subject, this subject, but it is more frequently used with respect to Democrats in terms of liberals and with respect to Re-

publicans in terms of progressives, and I am not delineating any wings of any party.

The point is that you need a coalition of men of like mind. I think votes on the House floor have shown that such coalitions are very effective. For example, the vote on the Rankin pension bill I think showed that a coalition of liberals and progressives can muster more votes than a coalition on the other side. Now, what can such a coalition do?

In the first place, the members should be motivated to enter into such a coalition because the judgment of their districts on their actions will come as individuals on this issue.

As has been said here before, I think yesterday, it does not make any difference what party you are from. If your district is behind FEPC legislation, it is going to back you on this issue, whether you are a Democrat or a Republican.

There is an opportunity here. There is an inducement for coalition between people in both parties of like mind.

Now, in the House, where debate can be controlled, such a coalition can insure passage of FEPC legislation. Debate in the House can be controlled by a majority. And if the rules will not permit the legislation to be brought out on the floor, in any other way, although the rules have certainly been very much amended now on that point, the bill can be brought out to the floor on a petition, if there is a coalition.

The Senate can be kept in session continuously, day and night, and even if necessary, to have a special session. If that is the only way in which action on an FEPC bill can be obtained in the Senate, a coalition, a majority of the Senate—not enough to bring on a cloture according to the rules, but a majority—can keep the Senate in session. In the Senate, such a coalition might also conceivably make the new Senate cloture rule work. However, if it cannot make it work, a majority of the Senate can keep the Senate in session.

We have now had experience on this issue when it has been very much before us, when the country has been vitally interested, with two Congresses—one with a Republican majority, the other with a Democratic majority. And it seems clear by now that although the rank and file of members may want this legislation, somehow or other the leadership, whether it is Republican or Democratic, cannot seem to work it out so that it gets through, or even is heard to a final conclusion for a vote.

The leadership have a lot of pitfalls. They have a lot of other bills. They have national politics that they have to pay a great deal of attention to. And again I am not being critical of them; I am only describing a clinical fact. Somehow or other in this legislation, the leadership, either Republican or Democratic, cannot get it through. So it has to be a rank-and-file movement, and I think in both the House and in the Senate, for the reasons I have described, a determined rank-and-file movement, a coalition between Democratic liberals and Republicans who have a progressive point of view on national legislation—again, I emphasize that this is without delineating wings of any party, but just for the purpose of this particular legislation—such a coalition can get it passed in both Houses.

And that the President will sign it, there is no question because he said time and again that he is for FEPC, and he is so definitely com-

mitted on it that I do not think there could be any question about Presidential approval.

Thank you, Mr. Chairman.

Mr. POWELL. Thank you.

Mr. PERKINS?

Mr. PERKINS. No questions.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. Mr. Javits, I was interested in your comments on the practical problem of passage of this legislation. I wonder if you would agree with me in the statement to the effect that in the past there probably has been too much concern on the part of both parties in the civil-rights field to pay more attention to what political advantage might be obtained by getting credit for passing this legislation, rather than the concern over the practical problem of getting the votes to put it through in both the House and Senate. I mean by that that in the party platforms, for example, in 1944 and 1948, and in the House and Senate at the present time and also in times past, there has obviously been what you might call competition between the political parties on strictly a political basis in the civil-rights field for the purpose of obtaining support in elections of so-called minority groups.

Now, what I understand you to suggest is that what we need to do is for both parties to sublimate any thought of political advantage by getting the credit, shall we say, for passage of civil-rights legislation, and for the members of both parties who favor the passage of such legislation to join together in a bipartisan or nonpartisan coalition for the purpose of action, rather than political advantage to either?

Mr. JAVITS. You understand me exactly. And I would like to use a word which I think is very much in point here. The British use "ad hoc." It means something for a particular purpose which is temporary. And what we need here is an ad hoc coalition. I think that is the best way to express it. We need a coalition for this purpose and this purpose alone. I emphasize that, because I do not think we want to get into any question of fractionalizing parties. That is very much opposed to our two-party system and to our whole philosophy. Regardless of how much we may disagree within a party, as Governor Stassen, I think, has so well said, and as Wayne Morse has said, it is still our party; we have to stay in it. And I think that is the essence of the American system. But we can have for this legislation an ad hoc coalition.

Now, I would like to make this one other point, if I may. I do not go along all the way with the fact that the reason for failure in the past has been the effort to get political capital, because you had a Republican leadership, and for some reason or other, it got frustrated in getting the political capital through FEPC which was in its hands. Now you have a Democratic leadership which again is frustrated in getting the political capital which at least theoretically is in its hands. I think what we face here is a sectional tugging and holding. In other words, when we get to the point where you might get this bill through, trading begins, which is what the leadership suffers from. They begin to trade off lots of things with respect to southern Democrats or some other group that is particularly interested in this legislation, and it is that trading that prevails.

Apparently, from looking at the history of the thing, and again without assessing any blame—I do not think there is any to assess—apparently that equation is just as powerful with Republicans as it is with Democrats. That is apparently what happened. Hence it seems to me if you are going to get FEPC passed, it has to be an ad hoc coalition, having a grass-roots basis, that is, in the members themselves who are like-minded. For this purpose, we just have to lay aside the question of credit.

I may say, and again I do not say this invidiously or in a party sense, it would be a great contribution right now if the Democrats took the lead in that and said, "No, we do not have a patent on civil-rights legislation. We cannot put it through. On the contrary, we invited like-minded Republicans to join with us, and we will make this just as bipartisan as American foreign policy."

Mr. NIXON. In other words, following up the statement you just made, I think most of us feel that the foreign policy should be taken out of politics.

Mr. JAVITS. Yes.

Mr. NIXON. You are advocating as well that the civil-rights issue be taken out of politics completely?

Mr. JAVITS. Exactly.

Mr. NIXON. And you would agree, although not completely, that in the past, one of the difficulties in getting civil-rights legislation acted upon has been that it has been a political issue and treated as such by both parties?

Mr. JAVITS. It has undergone what I would say is leadership frustration.

Mr. NIXON. That is all.

Mr. POWELL. I would like to say in connection with this, speaking as a Negro, the time is rapidly coming, if it is not here already, when the masses of Negro people, because of the failure to keep party platforms, are going to resent civil-rights planks in platforms with obviously just vote-catching aims. It is going to backfire. It is coming. The Negro people are beginning to resent civil-rights planks in platforms as vote-catching devices, and the Democratic and Republican Parties, as far as getting the Negro vote, either had better stop writing civil-rights planks in platforms or do something.

Mr. JAVITS. Mr. Chairman, I think what you have said leads to something that has been a grave and disquieting fear with me, and that is that we may find, if our two-party system does not work on this issue, that we are going to have a party of the extreme left, and that that will be our opposition, profiting from what it always profits from—despair and hopelessness.

Mr. POWELL. That is right. I do not want to get involved in the discussion, but the Negro people only look toward communism when democracy fails them.

Mr. JAVITS. I think that has been true historically.

Mr. CHAIRMAN. I would like to state that I think the skill, tact, and fine judgment with which this hearing is being conducted is something that ought to be commented on on the record. I am very happy to be able to do it.

Mr. POWELL. Thank you.

Are there any questions, Mr. Burke?

Mr. BURKE. No; I have no questions.

(Mr. Javits' statement, referred to in his opening remarks, is as follows:)

STATEMENT OF REPRESENTATIVE JACOB K. JAVITS

The struggle for equal economic opportunity of which the FEPCO bill is the cornerstone involves two major questions. First, shall the validity of our constitutional democracy be maintained or shall it be cynically flouted. Second, shall we continue to furnish to the protagonists of the Communist ideology the greatest propaganda weapon they possess—the continued discrimination and segregation practiced in parts of the United States, particularly against the Negroes.

It must first be recognized that the struggle for equal economic opportunity is a struggle which affects every minority, not just Negroes, Jews, or Catholics. It affects Italians, Greeks, Slavs, Hungarians, Bohemians, Mexicans, Scandinavians, and many other diverse strains which go to make up our Nation and which are important in the population groups in different parts of the country.

The dangerous strain with respect to this denial of equal opportunity for minorities will come when there is an imminent depression. This issue has become so sharpened in late years that it will be unlikely that Negroes and other minority groups will fail to be discriminated against when undue lay-offs arise. A very interesting experience in this regard is the experience with rationing in Great Britain during the war when the most austere ration was accepted—and cheerfully accepted—by the population because they knew it was being equally applied to all. How remiss in this respect are we when it comes to economic opportunity.

My second point with respect to the force of the propaganda against democracy due to the argument that discrimination exists, especially economically, against our Negro and other minorities is of extreme importance. Analysis of the claims of the Communist propagandists indicates that this is the major effort of their propaganda line. We must remember that the present world—Asia today and tomorrow Africa—is on the move toward new patterns of government, of society and of economics. The hundreds of millions of yellow and black peoples outnumber the white in the world.

A world tied together as closely as ours must think in terms of discrimination on a world scale. The festering sore of economic discrimination in our domestic system is now projected by the Communists in the cold war as evidence of our intention to discriminate economically and socially on an ever-increasing scale against the colored peoples, not alone of the United States but of the world, as our power and influence increases. We know it is untrue and our actions in the Philippines and elsewhere prove it, but the dangers of this propaganda line are obvious. Implacably and skillfully pursued on a grand scale it is seeking to mobilize the colored races of the world against the democracies. Unthinkable as such a proposition is, it is not at all out of reason to ask us to bear it in mind as we consider this question.

An enormous part of this world is yellow or black. These peoples total, it is estimated, close to 80 percent of the world's population and are dominant in countries which cover the greater part of the world's surface. While to most Europeans who make up most of the remainder discrimination due to color is practically unknown. We cannot, we dare not be unmindful of this vast assemblage of colored peoples. They are much better aware than we think of what goes on in our own country—of the place in our society of our Negro citizens. They judge our protestations of freedom for the individual, our libertarian ideas in a very much more sophisticated way than we do ourselves. They see vast prosperity in the United States, but they recognize that it is not being enjoyed by the 10 percent of the population which is colored like themselves. They recognize that this is not due to inherent lack of talent or skill, but lack of opportunity in education, housing, and especially in jobs. They know that the Negro boy or girl who, after unbelievable labor, surmounts all barriers and gets a college degree or a professional degree as a lawyer or engineer, may well end up in a busboy's or porter's job or driving a truck or a taxicab. They know that there is practically very little room for Negro plant managers, skilled artisans, and technicians in our country, regardless of our need for these skills. They know that discrimination in employment hits Negroes the hardest. Our wartime FEPC, says Malcolm Ross in his distinguished book on this subject, *All Manner of Men*, received 80 percent of the complaints of discrimination in

jobs from Negroes, 14 percent from Mexican-Americans and 0 percent from Jews.

Thus, the yellow and Negro peoples of the world are made to question the good faith of our democratic system. It is the outstanding propaganda opening which we present to the advocates of the "police state," and which they exploit to the greatest effect.

Never in our history has there been as favorable a climate, both governmental and private, for the righting of the continuing wrongs of economic discrimination against Negroes and other minorities. The ringing declaration in the preamble of the FEPC bill before the Committee, included as well in my bill, "That the right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States" will, when enacted, be one that will do us more good in attaining our objective for world support of freedom and democracy than billions of treasure expended for foreign recovery, and millions of soldiers.

Mr. POWELL. We have one more representative from yesterday, Mr. Davenport, from Pennsylvania.

TESTIMONY OF HON. HARRY J. DAVENPORT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. DAVENPORT. Mr. Chairman, my name is Harry J. Davenport, Representative from the Twenty-ninth District of Pennsylvania. I am a businessman and an employer, and I hope to be able to convince the committee that the FEPC, if passed as a Federal act, will be highly beneficial to business as well as to all the people and to our whole country.

I might tell the committee that I have waited for this moment for many years. I have been active in the FEPC movement back in Allegheny County for several years.

Remember this, that when Hitler helped to boost himself up into power by using the device of anti-Semitism, it resulted not only in the deaths of 6,000,000 Jews, but in the deaths of perhaps 40,000,000 Gentiles, Catholics, and Protestants as well. Therefore, discrimination and persecution of any race are not aimed at merely that particular race; they are aimed at all people.

I would like to say there, when you listen to all these skeptics who say you cannot legislate the end of discrimination, you cannot legislate the end of prejudices, that we live in a nation of law. All of our lives, our institutions, are based upon a solid foundation of law. You know, in this country our founders started out from scratch. They had to make laws in order to cover the behavior and the actions of the people who made up our country. We have laws against arson and rape and burglary, and I do not think that there is any greater infringement of constitutional right or against the inalienable right of all people than to discriminate against a man when it comes to getting a job through which he provides for his family.

Then think of the great social waste. Think of the millions and millions of people belonging to minority groups who have potential talents which contribute so much to our national economy and to our culture. I have often shaken my head and wondered how we in this country could willingly accept the cultural contributions made by our wonderful Negro citizens and yet continue to discriminate and allow discrimination against them. We dance their dances and we sing their songs. Every time there has been a Negro with potential ability

who has been able to break through the pale, look at the accomplishments. I do not have to tell you about George Washington Carver and his great contributions to our country. I do not have to go on and talk about the poetry of Paul Lawrence Dunbar, or the great work of Sojourner Truth, or the great art of Marian Anderson, or Bert Williams, or Joe Louis. I think the time has come when we have got to break away from that silly tradition, from that idea, that there is any difference between the races of people as far as ability, mentality, of physical capacity is concerned.

I know that right before World War II, there was a conference of paleontologists, anthropologists, and students of human societies held somewhere in Europe. And after a week of deliberations, they published a paper, and this paper presented the fact that there was no scientific basis whatsoever that there is any difference in the mentality or the physical capacity of any of all the races of people.

Think what it would mean to our national economy if we stopped this absurd discrimination and gave the Negro people their full rights, their opportunities to develop themselves and to make good livings. Negro people are a people who love life. They love good food; they love good clothes; they love fine homes; they are no different from any other people. And if we give them the opportunity which this FEPC can begin to give them, to fulfill their lives, to make decent wages, think what that is going to mean to the retailers, the storekeepers. After all, we are not living in a world of merely noble concepts or ideas or brilliant speeches or resolutions. We are living in a world of things; we are living in a world of automobiles, of commodities, of electrical appliances, of commodious furniture, of good homes that we can build. And why should any section of our people be denied them?

I can tell you that in Pittsburgh, right in my own congressional district, after a survey we made, we found homes in which people were living that had not even toilet facilities, and we found one home where a family was doing its washing in an old broken-down commode. Now, you may think that before a dignified committee like this, such simple facts have no place. But they are the facts of life. They are the things that people have to live with.

FEPC would help these people. It would help by bringing these people with natural talents into our economic, industrial, cultural, and social fold. It would help them to develop themselves so that they not only could do a lot better by their families, get their children better educations, live in better homes, and enjoy the things of life, but they would become much better citizens. And think of the great contribution to our own national economy, our national health, our industrial output, our productivity.

God knows how many thousands of American boys died as a result of discrimination in our country, because that was ammunition which was used by Hitler. It was used by the Japanese among the peoples in Indochina, among the Malayan people. They went to them and they pointed out, "What do you have to expect from these democratic countries? Look how they treat their own minority groups."

There is an amusing story told me by a newspaper correspondent who was in Moscow. He was down in a subway waiting for a train, and he waited and he waited and he waited. The train was about a half hour late. And boarding the train, he shook his head. He said,

"My God, what inefficiency of your Russian people." So the big Russian guard looked up, and he said, "What about your lynchings in America?"

I started out by telling you that I wished to bring testimony to bear here which should convince you that the passage of a Federal Fair Employment Practices Act would be good for business. From State to State, the same arguments are being used against fair-employment-practice legislation. It may be helpful to examine these arguments in the light of statements made by business and industrial leaders in Connecticut, New Jersey, New York, and Massachusetts, where FEPC laws have been in operation for some time.

I have here a statement from R. T. Barker, superintendent of personnel administration of the Western Electric Co., Inc., New York:

It is my own opinion that the administration of the fair employment practice law in the States of New York and New Jersey has been fair and reasonable and has not entailed any undue hardship on employers who are trying to do a conscientious job in their employee-relation situations. We have not experienced any difficulty in meeting the requirements of these laws, and so far as I know, they have been accepted generally by our employees.

Thus, Mr. R. T. Barker, a business administrator in a big company, defended FEPC.

Mr. W. P. Morin, personnel director of the Hat Corp. of America, South Norwalk, Conn., Mr. Chairman, communicated the following letter to the Connecticut Inter-Racial Commission:

Since the enactment of the Fair Employment Practice Act for the State of Connecticut, I have found that this law has in no way interfered with our employment practices. * * * I think that many firms thought this would interfere with the operation of its policy covering hiring and promotions, but we received such a clear interpretation of the act that we saw nothing in it that would present any difficulties.

The Massachusetts Fair Employment Practice Commission is in receipt of a letter from Roger L. Putnam, president of the Package Machinery Co., stating the following:

Neither as chairman of your advisory council here in Springfield nor as a manufacturer have I ever heard anyone in the last 2 years say that the law ought to be changed. Everyone now admits that the principles that FEPC legislation is striving for are just.

Peter Grimm, former president of the Chamber of Commerce of the State of New York, says:

The antidiscrimination law after 2½ years of trial in New York appears to have operated effectively so far as I have been able to judge from talks with men in various lines of business. The administration of the law has been effective and salutary.

I would like to digress here for a moment. The mention of the chamber of commerce brings to my mind the time when I was executive vice president of the East Liberty Chamber of Commerce. That is a big residential and neighborhood shopping section in Pittsburgh where I publish a paper. I went down with members of the FEPC to attend a big mass meeting held in the State legislature in Harrisburg. There were 1,500 people there interested in the passage of a State FEPC, and trying to get that FEPC bill out of committee where it has been buried for the past 4 years, and where the Republican legislature in that State refuses to bring it out of committee in the face of very wide public demand.

I went down, of course, with some misgivings because everybody in my community does not feel as I do, especially among the wealthier businessmen. But I went down and spoke there, and when I got back, I found that the air around my community in certain sections became a little bit chilled. Well, I even went into a restaurant there and ordered something, and the man who owns the place, whose ideas on the subject are diametrically opposed to mine, came up to me, and in a very snarling, discourteous way, said, "We don't serve your kind in here. Go out and eat or drink somewhere else."

So I have myself been a victim of Jim Crowism. I know what it is.

On February 8, 1948, the New York Herald Tribune bore witness to the effectiveness of New York's fair employment practice law. Quoting from that paper, which nobody could, by long odds, say is a strictly Democratic medium:

The Ives antidiscrimination program is something that works. In close to 3 years of existence the State commission against discrimination conceived among great argument and misgivings by many has quietly shown the way that conciliation and persuasion can establish completely new patterns.

To get back to Pennsylvania, because I happen to know that there is today here a reporter who represents a big paper in Pittsburgh, I would like to go on record as saying that the Republican legislature in Harrisburg is positively responsible for not bringing out of the committee a Pennsylvania State FEPC law, in spite of the fact that Governor Duff of that State has repeatedly made statements that he was in favor of the passage of this law. But, lo and behold, what happened? Mr. G. Mason Owlett, leader of the Pennsylvania Association of Manufacturers, and a Charlie McCarthy for old Joe Grundy, whipped the boys of the Republican delegation into line, and the result was, the bill is still in committee.

Often the argument is voiced that it is impossible to do away with prejudice by legislation, and that therefore fair employment practice legislation offers no real solution to the problem of employment discrimination. As a matter of fact, FEPC measures are not designed against prejudice itself, but instead to prevent overt expression of prejudice as manifested in industrial discrimination.

Mr. J. J. Morrow, personnel manager, Pitney Bowes, Inc., has stated his position succinctly, and I quote Mr. Morrow:

There are, of course, a number of well-meaning people who oppose legislation to abolish discrimination in employment, most of them through the feeling that legislation is not the real answer to a problem which can best be solved by education. Naturally, legislation cannot destroy race prejudice, but it can and should be the framework upon which the building of free economic opportunity for Negroes can be started. The educational side of the picture is the ultimate answer, but as all of you must know very well from experience, the process is a slow and often painful one which needs the assurance of support that only legislation can give it. The purpose of such a law, and all laws, for that matter, is to protect rather than to punish. With proper administration and with co-operation from industry, I think these laws are a very important step in the right direction. If they did nothing else, they would at least be helpful to those employers who prefer to treat the Negro fairly but who lacked the courage to do so without the excuse which the laws furnished.

And there is a very pertinent point, a very, very big factor in this whole issue.

I belong to golf clubs and other clubs, and I get around with these businessmen. I can remember during the Roosevelt years how they would get into the lockers and some of them would start to cry against

Roosevelt and that New Deal, and this law and that law, those laws which saved those very same businessmen from going into bankruptcy, perhaps, and I would notice that some men would hesitate, these men who had nothing before the New Deal started, and then business had started to perk up, and everything was going fine. Yet, they would listen to the eternal harping, harping against Roosevelt, and they would be brought into that ridiculous circle, too.

Now, I know that there are thousands and thousands of businessmen who do not have anti-Negro feelings, but who go along because they are afraid to jump off the track. And the FEPC law would help those liberal American businessmen to give the Negroes and other minority groups discriminated against their American right to a decent job.

We talked about the attitude of business. Now I want to quote here something that Walter Reuther, one of America's outstanding labor leaders, said about FEPC. And remember this, members of the committee, that when the FEPC law is passed, and I believe it will be passed, you have in your union organizations in every city in the country, CIO and A. F. of L., for many years who had a campaign against discrimination, where you have millions and millions of union members who already accept that idea, who have already been worked on to the extent where they do not have anti-Negro, anti-Semitic, anti-Catholic, and anti-foreign-born ideas. They have done a job to help to prepare the American people for this great realization of a Federal Fair Employment Practice Act.

Walter Reuther said:

The Negro minority comprises 1 out of every 10 Americans. If those other groups most actively and persistently victimized are added, the minority problem involved one-third of the Nation. When one adds to this fact the realization that a minority's problem is a consequence of the attitudes and actions of the majority, it should be clear that democracy cannot complacently assume that a gradual, intricate, and fitful process vaguely known as education will somehow turn bigotry into tolerance and discrimination into equal justice in time to save the free way of life from disintegration. Of all vicious circles, that of discrimination is the most vicious. As George Bernard Shaw pointed out a half century ago, America makes the Negro clean its boots and then proves the moral and physical inferiority of the Negro by the fact that he is a bootblack.

I might get away from Walter Reuther's statement for a moment to say this: H. G. Wells, a great English author, said that he believed that the basis of anti-Negro feelings were this, that it is the attempt on the part of small people to want to look down on somebody smaller than they are.

Mr. Reuther continued:

Discrimination deprives Negroes of the opportunity to learn skills and then shoves them out from employment on the ground that they lack the requisite ability. Economic deprivation leads to poverty, ill health, crime and general lack of fitness to play a responsible role in society. And then the wheel of discrimination is given another turn. The Negro is the marginal element in labor forces. When times are good and labor is scarce, a relatively large proportion is able to find jobs, but when times are bad, the proportion of Negroes hired shrinks. This is reflected in the ups and downs of proportions for applicants for social security account numbers who are Negroes.

In all those cities where FEPC has been put into practice, it has been successful in varying degrees. I wish to make this point, Mr. Chairman, and that is that the FEPC is not aimed at any particular section of the country. The FEPC is not aimed at the South, or the Dixiecrats, and we should not carry on our struggle to pass a Federal

Employment Practices Act in that spirit. This is not recrimination; it is not in any way criticism of any, because it is a universal problem.

There is objection to FEPC because they say it is impractical and it will not work. Think back in the history of our country. Think back when we had no income taxes. People accept income taxes today. Think of the time when we had no unemployment insurance, when we had no workmen's compensation, when we had no price control, when we had no rent control.

If we pass this law, the people will abide by it, and it will be successful just like all those other laws which were considered revolutionary and radical at the time.

America has a great heritage. America has a great future, but that future can be assured only if we go arm in arm with our brothers, Protestant and Catholic, Gentile and Jew, White and Negro, and we march into a better world of security for all the people and a world of permanent peace.

Thank you.

Mr. POWELL. Thank you, Representative Davenport.

Mr. PERKINS?

Mr. PERKINS. No questions.

Mr. POWELL. Mr. Burke?

Mr. BURKE. There is just one thing I would like to comment on. You quoted Walter Reuther in his statement, and I think you will find in your district also that this has been true, that union members generally have come to the conclusion that the artificial barriers set up on the basis of race, creed, color, national origin and so on have just militated to keep them apart and to keep them economically downtrodden. And for that reason, they have themselves come to the conclusion that prejudice and discrimination are certainly not things that are good for them.

Mr. DAVENPORT. I agree with you, Mr. Burke. The unions have been a great school preparing a large section of the American people for the acceptance of the FEPC. A large part of the work necessary to bring about the realization of the end of discrimination has been already done by the unions, and it is going to be my mission in Congress, and that, I believe, is the chief reason why I happen to be here, to prepare and help to organize the small businessmen to show them that their interests are identified with the working people of the country and that their interests are also identified with the greater prosperity of all people regardless of race, creed, or color.

Mr. BURKE. That is all.

Mr. POWELL. Thank you.

Mr. DAVENPORT. Thank you.

Mr. POWELL. We have one witness left over from yesterday, a congressional witness. That is Representative Klein, who I understand wishes to file his statement and just say a couple of words.

Representative Klein, from Manhattan.

TESTIMONY OF HON. ARTHUR G. KLEIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. KLEIN. Mr. Chairman, I am not going to take the time of the committee. I have already submitted a statement for the record. I just want to talk about one facet of this problem.

This type of legislation has been called communistic. If it is, then Thomas Jefferson, who advocated this principle, and Abraham Lincoln and Franklin D. Roosevelt and Harry Truman are Communists.

I am sorry that the gentleman from California, Mr. Nixon, is not here. He is a member of the Un-American Activities Committee which is interested in fighting communism. I think that a law enacted along these lines would do more to combat communism in this country than 10 Mundt-Nixon bills. The Un-American Activities Committee ought to advocate legislation such as this.

We all know that communism breeds on discontent and misery; and discrimination in employment, discrimination against different religions, different races, and different nationalities creates that misery. Negroes, we know, are the main objects of discrimination in employment, and in all forms of our national life. In many parts of the country, Jews cannot get employment, or if they do, they get inferior types of employment. Catholics in many parts of the country are a minority, and they are discriminated against.

Discrimination against a particular race or creed, if it gets a start in one part of the country, can spread so that any place in the United States where there is a conspicuous minority may be discriminated against, even though in some other parts of the country they may be in the majority.

I earnestly hope, Mr. Chairman, that this legislation will be adopted. I do not want to go into the merits of it. It has been done here before, and it will be done by others. I think the important thing is to show the people of this country and the world the benefits of democracy, and this certainly is democracy in a real sense. We cannot get away from all extremes, either the left or the right, but we can try.

Mr. POWELL. Thank you, Representative Klein. I agree with you on that.

Are there any questions, Mr. Burke?

Mr. BURKE. No questions.

(The prepared statement of Mr. Klein is as follows:)

STATEMENT OF REPRESENTATIVE ARTHUR G. KLEIN

Mr. Chairman and members of the subcommittee, there are some simple facts in the economic life of America, and in the political life, too, which are not quite pretty. There is a glaring gap between our ideals of equality and our practices, not only in the serious business of American citizenship and its rights, privileges, and duties, but in the still more serious business of making a living.

It is a fact that in most parts of the United States American citizens who happen to be Negroes have a harder time making a living than anybody else. It is a fact that in many parts of the United States employers will not knowingly hire Jews, or will hire them only for subordinate tasks, in a pattern of discrimination comparable to that carried out against Negroes.

There are other localities in which Roman Catholics, and especially Roman Catholics of Italian, Spanish or Mexican descent, have difficulty in obtaining jobs in preferred occupations, or cannot gain promotion even if they get jobs. Discrimination in employment against orientals is very widespread; and in some States the very first Americans, our own American Indians, have the same trouble.

American citizenship is absolute and indivisible, except by due process of law, and economic freedom is even more important to the individual's material welfare than political and intellectual freedom. The interests of all Americans are so tightly bound together that you can't take away any part of the rights of one without taking away a little bit of the rights of all.

Now, there are some people with so little faith in what America stands for that they think discrimination against groups of people, and against individuals of that group, is somehow imposed by Heaven and not by bigotry. By and large, these are the kind of people who say that to expose our own abuses of the democratic way of life is somehow communistic, and that it is even more communistic to try to do something about it, as in this bill. Curiously enough, the people who are most vocal against this kind of legislation, which spells out the right of every American to get a job on his own merits, are very likely to be the same ones who demand anti-labor legislation in the name of giving workmen the right to get a job.

Calling this kind of legislation communistic is sheer nonsense.

I don't know, Mr. Chairman, and you don't know, whether or not we can pass this bill; and if it is passed we don't know for sure if it will work as we hope it will work. We do know that if this bill is communistic then Thomas Jefferson was a Communist, Abraham Lincoln was a Communist, Franklin D. Roosevelt was a Communist, and Harry Truman is a Communist.

We know that we would be faithless to our own commitments, faithless to our convictions, faithless to our party, and faithless to our country if we did not do everything in our power to stop discrimination in employment, or anywhere else.

This country is firmly founded on the principle of the essential and divine dignity of the individual man. When any man or woman is judged as to employability on any other standard except his own worth as an employee, the philosophy of our kind of government is flouted and outraged.

I am always dubious of noble experiments in legislating public morality. I wish that I could be so optimistic as to believe that this law could be made unnecessary by public education and general acceptance of the principles on which the bill is written. That would be wishful thinking. As a realist, I know that education is too slow. Discriminatory practices, especially in times of economic stress, grow and crystallize faster than they can be combatted.

New York State has proved that it is possible to legislate in this field. We haven't stopped economic discrimination in New York; but we have certainly discouraged it. Mr. Chairman, I hope that this bill is favorably reported and passed. I shall do everything in my power to help. Let's make our kind of democratic living work right here in America before we try to reform the rest of the world.

Mr. POWELL. Mr. Charles Houston, general counsel of the Negro Railway Executives Committee.

Will you kindly tell us for the benefit of the record all the other things you have done in this field of FEPC, because I consider you the most valuable witness who probably will appear in the course of the entire hearings.

Mr. Houston. Thank you very much.

Mr. POWELL. Will you tell the reporter, so that we can have it in the record?

TESTIMONY OF CHARLES HOUSTON, GENERAL COUNSEL, NEGRO RAILWAY LABOR EXECUTIVES COMMITTEE

Mr. Houston. Mr. Chairman and members of the committee, I identify myself as general counsel, with Archibald Bromsen of New York and Joseph C. Waddy of Washington of the Negro Railway Labor Executives Committee. That committee is made up of the heads of the following unions: The Association of Colored Railway Trainmen and Locomotive Firemen, Colored Trainmen of America, the Dining Car and Food Workers Union, International Association of Railway Employees, and the Southern Association of Colored Railway Trainmen and Firemen.

It might be important for the record to note that the reason for the existence of at least four of these organizations is because the

Negro train service workers are excluded from membership in the Big Four Brotherhoods, the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Brotherhood of Railroad Trainmen, and the Order of Railway Conductors. I excluded from this the little splinter organization, the Switchmen's Union of North America.

I am appearing officially for the first-named group of organizations. But to give the committee some idea of the fact that I have been around the fair employment practice problem, I might also say that I am the chairman of the national legal committee of the National Association for the Advancement of Colored People, vice president of the American Council on Race Relations, vice president of the National Lawyers' Guild, member of the National Advisory Board of the Commission on Law and Social Action of the American-Jewish Congress, and I am a former member of the wartime Fair Employment Practice Committee.

I am here to support H. R. 4453 and to urge its passage. I do not think it is necessary for me to argue the constitutionality of the law, because the great social legislation of the New Deal in the 1930's and the court decisions based upon that legislation established the constitutionality of a fair employment practice act beyond any quarrel. I would refer, among other acts, to the Railway Labor Act of June 21, 1934, to the Fair Labor Standards Act of June 25, 1938, and to the Wagner Labor Relations Act of July 5, 1935.

So I pass from the question of the constitutionality of the act, because the only way that you could say that the act was unconstitutional would be to make a distinction between race and any other element about which there was labor legislation under the New Deal.

Now, I think H. R. 4453 is comprehensive. It is well-drafted, and it is extremely moderate. I have few suggestions by way of modification. I think there is just a minor correction in section 6 (d), where it speaks about the matter of the report.

Mr. POWELL. Yes, sir; that is a typographical error.

Mr. HOUSSON. The structural amendment which I would suggest is that in section 6 (a), where the commission is created; to be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate—that appears on pages 6 and 7—I should like to see that nonpartisan, much after the character of, let us say, the Civil Service Commission. So, in a commission of five, there should be no more than three commissioners at any one time from the same political party, the point there being that this is a matter which rises above partisanship, affects all citizens and people of the United States alike, and must not be subject to the chances of political fortune.

I subscribe to the findings and the declarations of policy in section 2. I should like to call attention of the committee and refer for purposes of the record to the final report of the wartime Fair Employment Practice Committee which was issued June 28, 1946, and which gives the 5 years' experience of the wartime FEPC as demonstrating the feasibility of FEPC legislation as working out in practice.

I also would refer to it to demonstrate the importance and necessity of fair-employment practice legislation. I should like to quote just a short section from this report, from page viii:

Nothing short of congressional action to end employment discrimination can prevent the freezing of American workers into fixed groups, with ability and hard work of no account to those of the wrong race or religion.

I should like also to call the attention of the committee to another matter from this same report, especially in view of the present hearings on the North Atlantic Pact. Discussing the question as to the effect of discrimination on our international involvement is a statement from the now Secretary of State, Dean Acheson, who was then Acting Secretary of State, and I quote from page x of the report:

In a recent letter to FEPC, then Acting Secretary of State Dean Acheson stated that, in his opinion, "the existence of discrimination against minority groups in the United States is a handicap in our relations with other countries. The Department of State therefore has good reason to hope for the continued and increased effectiveness of public and private efforts to do away with these discriminations."

I should like to tender a checklist for the record prepared by the Commission of Law and Social Action of the American-Jewish Congress as of October 1, 1948, which gives an abstract of all of the laws in the United States as of that date covering the subject. And there are some very interesting things which this checklist shows. This checklist shows that 32 States have laws against discrimination in public employment, most of them discrimination against religion, and the most interesting thing about all of this is that such laws appear in Alabama, Arkansas, Georgia, Mississippi, and Tennessee.

Now, it is, I think, an inconsistency which these Southern gentlemen would hardly dare to defend, in which they would argue that it is constitutional to legislate against bias in religion and unconstitutional to legislate against bias because of race or national origin.

I should like also to point out that 14 States have some laws against discrimination in private employment. The common feature about these laws is that they deal with employment on public works, or war contracts, or matters of that nature. But what is important is the fact of the trend, when you start out with 32 States with legislation against discrimination in public employment, 13 States with legislation against discrimination in some sort of private employment, and add to that as of the present date, or the last compilation, that there are 10 States with fair-employment-practice laws, I think you begin to see what is happening is that Congress is not pioneering; as a matter of fact, Congress is trying to catch up with the rest of America.

I should like to introduce the report of the American Council on Race Relations. And I suggest, may it please the committee, that these reports are some of the most valuable present-day research documents in the country on the matter of civil rights. And I am referring now to the American Council report of March 1949, volume 4, No. 3, the insert concerning the report on civil-rights legislation in the States, from pages 4 through 6, and this shows that fair-employment-practice bills have been introduced in 23 State legislatures for the present sessions.

(The material referred to is as follows:)

Report on civil-rights legislation in the States

State	Purpose of bill	No.	Agency sponsorship	Progress
Arizona	To establish fair employment practices.	H. R. 380	Arizona Council for Civic Unity; Arizona Civil Rights League.	Died in committee.
California	To create a fair employment practice commission.	A. H. 3027		Introduced: Collins and others, Jan. 29, 1949. Referred: Governmental Efficiency and Economy Committee.
Do	To prohibit inclusion of questions relating to race or religion in any application form required by any department, board, commission, etc., of the State.			
Do	To amend Labor Code to define unfair labor practices so as to make it illegal for employers to discriminate because of race, creed, color, national origin, or membership or lack of membership in any organization, excepting a Communist or subversive organization. Makes it illegal for unions to discriminate because of race, color, creed or national origin.	S. B. 1212		
Do	To establish a commission on political and economic equality to eliminate racial prejudice and discrimination as well as political and economic prejudice and discrimination.	A. B. 739	California Federation for Civic Unity.	Introduced: Mulaney and Niehaus, Jan. 18, 1949. Referred: Governmental Efficiency and Economy Committee.
Do	To create a fair employment practice commission.	A. H. 3027	do.	Introduced: Collins and others, Jan. 29, 1949. Referred: Governmental Efficiency and Economy Committee.
Colorado	To secure nondiscrimination in employment.	S. B. 635 H. B. 907	Colorado Citizens' Committee for Civil Rights Legislation.	Introduced: January, 1949. Referred: Labor Committee.
Delaware	To create a fair employment practice commission.	S. B. 217	Delaware Fellow-Commission; NAACP.	Vote: Passed House 35-23, Mar. 24, 1949. Referred: Senate Labor Committee.
Illinois	To establish a fair employment practice commission.	H. B. 163	Illinois FEPC Committee; endorsed by Governor Stevenson.	Introduced: 16 bipartisan Senate sponsors, 56 bipartisan House sponsors, Feb. 10, 1949. Referred: Executive Committee of House.
Indiana	do.	H. B. 79	Indiana Council for Civil and Human Rights; Governor's support.	Introduced: Littlejohn and Klein. Died in committee.
Iowa	To prohibit discriminatory practices in employment and in membership in labor unions; and to create a commission on job discrimination.	H. F. 318		Introduced: Feb. 11, 1949.
Do	To establish a system of personnel administration in State employment and to forbid discrimination for reasons of color or religion.	H. F. 18		
Kansas	To establish commission against discrimination to investigate discrimination in employment and report to the legislature commission.	H. J. Res. 1		
Do	To establish a fair employment practices.	S. B. 277		

Report on civil-rights legislation in the States—Continued

State	Purpose of bill	No.	Agency sponsorship	Progress
Michigan	To create an FEPC	H. B. 148	City of Detroit Mayor's Interracial Committee; Michigan Committee on Civil Rights; Governor Williams' approval.	Introduced: Doyle and Griffiths, Feb. 8, 1949. Referred: State Affairs Committee.
Minnesota	To establish an FEPC	H. F. 148 H. F. 198 S. F. 82 S. F. 204	Minnesota Fair Employment Practice Council; Governor's approval of H. F. 148 and S. F. 82.	Introduced: H. F. 198, by Goodin; S. F. 204, by Carr. Vote: Defeated in Senate Committee of Whole, on motion to indefinitely postpone, Mar. 29, 1949.
Missouri	To provide against employment discrimination in State, municipal, school, and police departments on account of race, creed, color, marital status, political, or organizational affiliations.			Introduced: Jan. 24, 1949.
Montana	To create an FEPC	H. B. 62		Vote: Defeated in House 51-32.
Nebraska	To establish an FEPC	L. B. 117	Antidiscrimination Committee of Omaha CIO Council.	Introduced: Adams, Jan. 11, 1949. Failed in committee.
New Mexico	do	S. B. 45	League of United Latin-American Citizens; New Mexico Council on Human Relations.	Vote: Passed; signed, Mar. 17, 1949.
North Dakota	To make it unlawful for any employer to discriminate because of race, color, or religion.	S. B. 230		Introduced: January 1949. Referred: Labor Relations Committee. Indefinitely postponed in the Senate.
Ohio	To create an FEPC	H. B. 106 H. B. 32	Ohio CIO Council; Ohio Committee for FEPC Legislation; Governor's support.	Introduced: Hart and others. Vote: Passed House, 70-61.
Oregon	To establish an FEPC	S. B. 235		Vote: Passed and signed Mar. 25, 1949.
Pennsylvania	To create an FEPC	H. B. 976 S. B. 6 S. B. 137 H. B. 22 H. B. 42	State Council for a Pennsylvania FEPC; Philadelphia Fellowship Commission; Governor's support.	Introduced: Sax and Mintess, Mar. 2, 1949. Referred: Committee on Labor Relations.
Rhode Island	To create a 5-member FEPC	S. B. 22 H. B. 539	Rhode Island Council for Fair Employment Practices; Governor's support.	Introduced: McCabe and others. Vote: Passed and signed Apr. 1, 1949.
Utah	To create an FEPC	S. B. 125	Salt Lake Council for Civic Unity; NAACP; Veterans' Joint Legislative Council.	Died in committee.
Washington	To establish fair employment practices	H. B. 92 S. B. 12	Washington State Committee Against Discrimination in Employment; Seattle Civic Unity Committee.	Introduced: Ford and Westberg. Vote: Passed and signed Mar. 19, 1949.
West Virginia	To establish a Fair Employment Practices Commission.	H. 113		
Wisconsin	To strengthen existing FEPC Act.		University of Wisconsin chapter of Students for Democratic Action.	

Mr. HOUSTON. Now, if we eliminate the South, we realize that at least in the rest of the country, which has accepted the Constitution, a majority of the Northern, Eastern, and Western States already have FEPC legislation or they have introduced bills which are before the legislatures or which have been considered by the legislatures in the present session.

I should also like to introduce the American Council Release No. 43 as of March 24, 1949, and to ask the committee to permit me to supplement this with Release No. 42, its preceding report, which gives an evaluation of the State FEPC laws, experience, and forecasts. And I ask that all the matters referred to so far be made a part of my testimony.

Mr. POWELL. Without objection, it is so ordered.

(The other documents referred to will be found in the files of the committee.)

Mr. HOUSTON. I should like to point out, in spite of this trend of the States, the necessity for a Federal FEPC. One is that the most reactionary areas of employment concern transportation and transportation workers, the great exception being the CIO Transport Workers Union of America. Outside of that, though, it is in every one of the big train service organizations, especially interstate. They all have bars against Negroes, Mexican-Americans, Japanese-Americans, all of them minorities, because they restrict membership to whites or in some instances to American Indians or persons of Indian extraction.

The whole public-utility field is regulated by law so far as service is concerned, and certainly is one which is now regulated by law as far as most labor relations are concerned. This is only adding an incident, to include the question of legislation against discrimination against minorities.

Likewise, the large scope of the war industries and the plans for the rapid conversion of peacetime industries to a wartime basis in case of national emergencies calls for establishing a uniformity of practice, so that we are not faced, in national emergencies, with the varying standards of the States.

In the last two wars we have been fortunate in having an advance line in Europe and an advance base behind which we might prepare ourselves. We will have no such advantage in the next war. So if we are going to prepare, we have to prepare now in time of peace and build the organization of our workers for the purpose of national mobilization.

There is another matter as to international relations which I want to call to your attention, because I think there has been so much concentration on Russia that we have skipped one of the greatest, if not the greatest, phenomena of our day. To my mind, this concentration on Russia has entirely lost sight of the rise of Asia. The greatest change which has happened is the decision of India to remain within the British Commonwealth of Nations.

I wonder if anybody has stopped to think—that is, any of those southern congressmen—that in the western bloc there are now over 400,000,000 people who are nonwhite. In other words, in the western bloc itself, a majority of the people are nonwhite. As a matter of fact, the struggle for power is not going to be a two-way contest. It is

going to be a three-way contest, with the odds all ultimately in favor of Asia. And if we are going continually to insult people of Asiatic extraction and other minorities, then we are cutting the ground away from ourselves, because wars are not won by armaments; they are won by the convictions and the love of liberty and justice in human hearts.

Speaking now on section 3 of the act, I subscribe to the floor of 50 which the act provides as a minimum to bring the employer or the labor organization within the act. I think the floor of 50 is sufficiently large so as to do away with a lot of mind housekeeping. It does away also with the argument against the regulation of intimate personal relationships, where a man has a small factory or a small business or profession.

On the other hand, when you get a business with a minimum of 50 employees, you begin to get impersonalization and anonymity where the application of broad standards works a hardship on no one, and unless you keep the floor at 50, you will then permit so many persons and so many industries to escape that you will not be able effectively to establish a national pattern.

In the matter of the unlawful employment practices—I skip the question of the regulation of employers, because that was established from way back at the very first Executive order establishing FEPC—I want to go for just a moment to the question of fair-employment practice as to the regulation of unions.

Now, as to unions which are democratic, a declaration by law of their own union practices certainly cannot hurt. On the other hand, the organization of industry is now such that unless a man is inside the ranks of organized labor, he is really working at sufferance so far as his daily wages are concerned.

We have gone through this, and it has been established by the United States of America in *Railway Mail Association v. Corsi*, the great New York case, in 326 U. S. 88, that a State can impose the obligation that a labor union admit all qualified members of the craft. And the same thing has happened in California, where *James v. Marinship Corporation*, 155 Pac. 2d 329, and *Williams v. The International Boilermakers*, 155 Pac. 2d 903, have established the principle that you can have a closed shop and an open union, or you can have an open union and a closed shop, but you cannot have a closed shop and a closed union. And there is a point particularly where a fair-employment practice law has to step in.

I would also like to point out the fact that State courts, by their own decision, *Betts v. Easley*, in 161 Kans. 459, have ruled that discrimination in the classification of membership is also against the law and public policy. And the Kansas decision was reached in reference to a union, the Brotherhood of Railroad Carmen, which was working in interstate commerce.

So we have here State standards of morality, so to speak, which completely established the fact that you are not pioneering in this matter of section 5 in establishing unfair labor practices on the part of unions who discriminate against minority workers on account of race, creed, color, or national origin.

Now, I would like to point out one other thing—the absolute necessity of being inside the union. Even after getting a collective-bargaining contract, the policing of the contract is the important thing which

translates itself into jobs and wages. In other words, the collective-bargaining contract is simply a regulation; it is the enforcement of the contract by the working boss, or by the shop foreman, or by the local chairman, which actually gives the worker his protection, or denies him protection.

Now, in the railway industry, the Negro workers have been up against the proposition that they were not members of the unions which drew the contracts; they did not have any voice in selecting union officials who made the contracts or who policed the contracts. So any time you have a worker who has no voice in the selection of the official who makes his contract or enforces his contract, no right to censor that official, no right to remove that official in case of misfeasance, that worker, I say, is working and holding his job by sufferance, and has absolutely no protection and cannot be protected unless he is inside the labor union.

May I call your attention—just citing some cases which may be of interest in case this matter is ever challenged—to *Steele v. Louisville & Nashville Railroad Company*, 323 U. S. 192; *Tunstall v. Brotherhood of Locomotive Firemen and Enginemen*, in 323 U. S. 210, the same case in 103 Fed. 2d 289, where damages of \$1,500 were imposed upon the Brotherhood of Locomotive Firemen and Enginemen for discrimination against a Negro fireman in representation, and the case of *Palmer v. Southern Railway*, which is now pending in the United States District Court here in the District of Columbia, which is raising the issue as to whether a union can represent a worker, a nonmember, unless it gives him the same opportunity to select the bargaining officials and the local grievance officials as a regular member.

As to section 6, I will call attention to the point I have already made, and I should like to offer an amendment, by way of a sentence on page 7, line 4, after the word "Senate":

No more than three commissioners serving at any given time shall be members of the same political party.

I have already indicated the reasons for this. I think this becomes particularly important when you turn to section 7 (a), which is at the bottom of page 10, line 25, where you give the commission exclusive power in the matter of hearing complaints of unfair labor practices under this legislation. That is to say, I think that if the Commission is going to be given an exclusive power, every safeguard should be given to establish that the Commission shall be nonpartisan.

I should like to give you the sad example of a partisan board, which is the National Railroad Adjustment Board under the Railway Labor Act. That National Railroad Adjustment Board, under section 3 of the Railway Labor Act, is composed of 36 members—18 are selected by the carriers and 18 are selected by the labor unions, national in scope. You begin to see at once what happens when you realize that the Negro workers are excluded from the unions, national in scope, which select the labor representatives who are on the Board.

Now, the National Railroad Adjustment Board is divided into four divisions, and division No. 1 handles the train, engine and yard service employees—the operating employees—and the 5 labor members—there being 10 members in all on this division No. 1—5 carrier members and 5 labor members—the 5 labor members are chosen from

the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Brotherhood of Railroad Trainmen, the Order of Railway Conductors, and the Switchmen's Union of North America. Every one of those five unions has a Negro color bar.

Now, to ask a Negro fireman or a Negro brakeman to take his case or his grievance before the National Railroad Adjustment Board, first division, with the five labor members chosen by unions which bar Negroes from membership, is not adjudication, but confiscation. For that reason, I say that it is most important to have this commission nonpartisan because of the vast power that is exercised by them, and I think that they should have all the dignity of United States district judges.

And if there is any complaint which I would have about the matter of the Commission, it would be that the terms of each member should be lengthened, so that you would run the terms of the maximum, under rotation, up to 10 years, instead of 5 years, so that the man, first, could make it a career, and, second, he could be above the necessity of watching the political weather vane on the matter of his decisions, fearing that he might not be reappointed.

Outside of that, I think that the act is very commendable. I think it is necessary. It will work, and I am quite sure that you will be strengthening national policy and doing a great service to the individual human beings who make up this Nation to pass this legislation.

I want to say one final thing: The Government which exacts an obligation of individual loyalty, support, the draft, service in the armed forces, payment of your income tax and other taxes, to my mind owes the same duty of protection on an individual basis. As a matter of fact, the Supreme Court has already said that. In a number of cases, such as *Mitchell v. Interstate Commerce Commission*, where Congressman Mitchell wanted to go to Hot Springs and the railroad company said, "Well, Negroes do not have enough patronage to justify a separate pullman," and they could go down and get lower 13, which means a berth in the drawing room, if they would go down and ask far enough in advance. Chief Justice Hughes said a Negro has the right to buy his ticket on the same terms as anybody else; the Gaines case, and the Sipuel case, which say it does not make any difference who wants the education or how many want it or how many do not want it; if one Negro makes application for public education which is offered to whites but not to Negroes, the State is under a constitutional obligation to furnish it. So a Government which exacts individual loyalty and obedience and does not render protection on an individual basis commensurate with that same obligation of obedience, to my mind, is not worthy of the name, and has no right to call upon the citizen for obedience until it is willing to give him commensurate protection.

MR. POWELL. Thank you, Mr. Houston. I should like to ask you some questions.

First, if invitations to appear are ignored, would you favor this committee issuing subpoenas to Mr. Whitney and the other responsible officials of the brotherhoods to come before us and answer questions as to why the railroad brotherhoods refuse to admit Negroes, and, in some cases, Jews?

Mr. HOUSTON. Not only Jews, but everybody else. I certainly commend that, and let me also call attention to the fact that at the present time, in the case of *Tillman v. St. Louis & San Francisco Railway Company*, in the United States District Court of the eastern judicial division of Missouri, before Judge George H. Moore, we are suing the same four brotherhoods to establish the principle that it is against the law and public policy of the United States to bar employment of any citizen on a public utility. And I would like to say how vulnerable they are.

In 1928, on March 14, the four brotherhoods—the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Brotherhood of Railroad Trainmen, and the Order of Railway Conductors, forced the St. Louis & San Francisco Railway Co., through the Board of Mediation to the everlasting shame of the participation of the Federal Government in such a thing, to make a contract to the effect that after that date only white men would be hired in train, engine, and yard service.

Now, this is interesting. Those unions undertook to see that Negroes then in service would be protected in their employment, but they said that Negroes were unsafe to work with. The blind spot is that if unsafeness and inefficiency was a racial characteristic, the Negroes then in service had no more right to their jobs in the protection of the public than the Negroes who were not in service. So the very undertaking of the unions to preserve the jobs of Negroes in service just put the lie to the very arguments that they were using as grounds for barring Negroes.

We sued for \$4,000,000, and the case came to trial April 28, 1949. The unions walked in court, and on that day, facing a suit for \$4,000,000, they abrogated this agreement. In other words, they laid down their own FEPC. But we did not let them stop there, because we want a judicial decision in case that contract is repeated. I think that one of the most interesting things would be for this committee to subpoena the four railroad brotherhood heads to find out why a public utility which serves all the people should not recognize its commensurate obligation to have fair-employment practices as well.

Mr. POWELL. What four do you suggest that we first invite, and give them time to reply, and if they do not reply, to subpoena them?

Mr. HOUSTON. I suggest that you invite Mr. Alvany Johnston, of the Brotherhood of Locomotive Engineers; Mr. D. B. Robertson, of the Brotherhood of Locomotive Firemen and Enginemen; Mr. Whitney, whose first name escapes me for the moment, of the Brotherhood of Railroad Trainmen; and the president—he was Frazer—but I do not know who he is now, of the Order of Railway Conductors.

This fifth organization is not as important, but I would suggest that, to make the picture complete, you also invite the head of the Switchmen's Union of North America, whose office is in Buffalo, N. Y.

Mr. POWELL. Mr. Nixon, do you have any questions?

Mr. NIXON. Yes. Mr. Houston, did I understand you to say that if you had a closed shop, it would be necessary to have an open union in order to insure nondiscrimination?

Mr. HOUSTON. That is right. As a matter of fact, a closed shop and a closed union have been outlawed by judicial decision in California. Those two cases are *James v. Marinship*, 115 Pac. 2d, and *Williams v. International Boilermakers*, 165 Pac. 2d. That is right, sir.

Mr. NIXON. The present situation in the railroads is that Negroes are not eligible for membership in the unions?

Mr. Housron. That is right.

Mr. NIXON. But is it a fact that, as a result of their ineligibility for membership in unions, they are denied employment in those particular capacities?

Mr. Housron. Absolutely. As a matter of fact, that is the whole history since the Washington agreement of 1910 by the Order of Railway Conductors and the Brotherhood of Railroad Trainmen, in which the unions have constantly whittled down the employment of Negroes by the introduction of what are known as percentage agreements, providing that not more than a certain percentage of Negroes shall be employed. Now, the interesting thing, Mr. Congressman, is that those are always ceiling agreements. There is never any floor in them. In other words, they can go down to zero, but they can never rise above a particular percentage.

For example, on the Asheville division of the Southern Railway, it is 10 percent Negro firemen. Even then we do not have the employment of 10 percent, for the reason that usually hiring is unofficially done by the local chairmen bringing men up to the roundhouse foreman, or whoever the master mechanic is, or whoever is the hiring officer or manager. In other words, management details to the unions the task of recruiting, and they do not recruit when they cannot take members. There is no percentage in it.

Mr. NIXON. The reason I raise the point is that technically, as I understand it, there is not a closed shop under the Railway Labor Act.

Mr. Housron. You are correct.

Mr. NIXON. But your point, I think, is that as a practical matter, since management uses the union as its own source of employment, it means that even though there is not technically a closed shop, as a practical matter, none of the Negro applicants are hired; is that right?

Mr. Housron. That is right. And may I simply say that, in this Palmer case, we have challenged the right of the union to represent us unless they give us the same right to select the members who do the collective bargaining, the same right of censure, and the same right of removal.

Now, the Supreme Court has said in the Steele case that, where necessary for the protection of minority interests, the union must come out of the union hall into open convention, just as you are here, to discuss collective bargaining proposals; so that if we are able to stop the union from representing us, unless they let us help elect the officials, when we make them come out of a lodge hall into open conference to discuss any business, we will be members of the union, because we will have destroyed all of the secrecy and the little perquisites of union membership which are now denied us.

Mr. NIXON. As I understand it, having sat through a number of hearings on the recent labor bill, I find there is a considerable problem in writing regulations opening up a union. We have, of course, in the bill before us, the provision that prohibits discrimination by a union for race, creed, or color, in denying or granting membership. But the interpretation of that clause in some cases, as you recognize, would have to be pretty broad in order to make it effective, because various rules could be adopted by a union which directly or in theory were not

discriminatory, but which in practice would be. You understand what I mean?

Mr. HOUSTON. Let me illustrate. In the case of *Railway Mail Association v. Corsi*, the Supreme Court decision affecting the postal clerks in New York, these railway unions, particularly the railroad trainmen and the firemen, adopted a rule which said that their exclusion policy should not apply in any State which makes it illegal to deny membership. What happens? They have the black ball, and they kill every Negro by the black ball, although ostensibly they have this principle; so that you would have to reach that by fair-employment practices, showing that invariably a Negro comes up no matter what his qualifications are.

Now, let me say one other thing. The unions put their prejudice above national safety. In the war manpower shortage of World War I, the B. & O. wanted to hire Negro firemen, and the railway unions threatened to strike if they put any Negro firemen on, even in the World War I emergency.

The same thing happened on the Coast Line in World War II. The same thing happened on the Frisco. The management asked the unions on the Frisco Railroad during the war if, in the war emergency—just in the war emergency—they would open up and permit the hiring of Negroes, and they said, unquestionably no. Now, when unions put themselves and their prejudices above national safety, I think it is time for legislation.

Mr. NIXON. During your administration of the wartime Fair Employment Practices Committee, I assume that some effort was made to break down this barrier.

Mr. HOUSTON. That is true. The FEPC held 4-day hearings against the railroads and the unions. The railroads came in but the unions ignored the hearings because there was no power to force attendance. They ignored all the directives, and as a matter of fact took a counter-offensive and went to Congress to attack the FEP Commission itself.

But, apart from the railroads and apart from one or two industries, the experience of the wartime FEPC, as in the Philadelphia transit strike, was that, if the effort was in earnest, everything went smoothly.

Mr. POWELL. Would you be kind enough to have your association submit to the committee pertinent questions to ask the gentlemen from the four brotherhoods? We are going to set aside next Tuesday at 2 o'clock for them, and the committee is going to request them to appear immediately by telegram, and if they ignore that, as they ignored the wartime FEPC, we will immediately issue subpoenas for them to appear on Tuesday at 2 o'clock.

Mr. HOUSTON. I shall be very happy, sir, and I shall not only do that, but I will submit to the committee all the material about the litigation which is pending against them and the results of it. We will see that this is put in your hands not later than Friday.

Mr. POWELL. Thank you.

Mr. NIXON. My last question relates to the experience since the wartime Fair Employment Practices Commission was in effect. Would you say that the voluntary agreements that you were able to work out during that period have been maintained, or has the situation become better or worse since that time?

Mr. HOUSTON. On the whole, I would say that the total situation has improved. It has improved because the State FEPC's have

recommended and proceeded from the point of the Executive order. On top of that, we are now in a move of wider integration of minorities in all phases of American life, and that inevitably reflects itself in wider integration in labor.

I served in World War I, and I was in Washington as a young man at the time of the riots after World War I. Fortunately, after World War II, the only thing that we had here of comparable size was the Columbia, Tenn., riot. But the integration of Negroes into the organized labor movement, more than anything else, has perpetuated industrial peace and community peace, because in the Sojourner Truth riots in Detroit there were no outbreaks in the shops where whites and Negroes were integrated and working side by side, and no violence in integrated neighborhoods.

Mr. POWELL. Mr. Burke has a question.

Mr. BURKE. With the exception of these few unions that you mentioned, where you run into specific problems, you have received cooperation from the labor movement, generally, rather than otherwise?

Mr. HOUSTON. From the CIO. Not from the A. F. of L. in all spots. The A. F. of L. building trades are pretty reactionary.

I am not an A. F. of L. expert, and I cannot give you the recent data on that, because I have been working in the field of the railway labor unions. But I think an investigation by the committee will clear that up. I can have someone here to give the committee that information. Clarence Mitchell, who is labor secretary of the National Association for the Advancement of Colored People, I am sure, will be able to testify and tell the committee specifically in what area the A. F. of L. unions have a bad record. But the whole movement, taking it by and large, is increasing integration of Negroes into the ranks of organized labor.

Mr. BURKE. I thank you.

Mr. POWELL. It is a shame we cannot keep you all day, I have so many questions to ask you, because you really know this problem better than anyone else. And I appreciate your coming here.

Mr. HOUSTON. I am at the service of the committee at any time.

Mr. POWELL. We might call you back.

Mr. HOUSTON. I would be only too happy to be called back, either Tuesday or Wednesday.

Mr. POWELL. Mr. Nixon says he thinks we ought to call you back.

Mr. HOUSTON. I shall be most happy to be here on Tuesday.

Mr. POWELL. Tuesday at 2 o'clock?

Mr. HOUSTON. Tuesday at 2 o'clock and Wednesday, all day.

Mr. POWELL. Thank you.

Mr. MASAOKA, we are sorry to have kept you because you had an appointment at 11:30. But you saw how our witness was.

Mr. MASAOKA. That is quite all right.

Mr. POWELL. Will you kindly give your name and organization for the benefit of the record?

TESTIMONY OF MIKE M. MASAOKA, NATIONAL LEGISLATIVE DIRECTOR, JAPANESE AMERICAN CITIZENS LEAGUE ANTIDISCRIMINATION COMMITTEE

Mr. MASAOKA. Mr. Chairman, my name is Mike Masaoka. I am the national legislative director of the Japanese American Citizens League

antidiscrimination committee. Our organization is the only national organization representing persons of Japanese ancestry in the United States, and, therefore, on their behalf I would like to express our appreciation to you and the committee and the Members of Congress for this opportunity to appear before you and point out that while we persons of Japanese ancestry constitute one of the smallest pools of any persons of a racial minority in the United States, perhaps one-tenth of 1 percent, we still feel racial discrimination just as much, just as viciously, and just as seriously as any other group.

I have a rather lengthy prepared statement which I would like to submit for the record, and with your permission I would simply like to summarize certain aspects of it and make certain comments regarding the Japanese-Americans in the employment field.

Mr. POWELL. Without objection, it is so ordered.

(The statement referred to is as follows:)

STATEMENT OF THE JAPANESE AMERICAN CITIZENS LEAGUE ANTIDISCRIMINATION COMMITTEE

THE INTEREST OF THE JAPANESE AMERICAN CITIZENS LEAGUE

Because we believe in the American ideal that every person willing and able to work has a right to equal consideration for a job commensurate with his ability, and because we have had long and intimate association with the problem of racial discrimination in employment, the Japanese American Citizens League (JACL), through its antidiscrimination committee, is grateful for this opportunity to express its views in support of Federal fair-employment-practices legislation.

The only national organization representing persons of Japanese ancestry in the United States, the JACL was organized in 1930. In 1940, to more effectively combat discrimination and prejudice against persons of Japanese ancestry, the antidiscrimination committee was incorporated to serve as the active legislative, educational, litigious, and petitional agency of the JACL proper.

The purposes of our organization are best described in our slogan: "For Better Americans in a Greater America"; and that of our antidiscrimination committee: "Equal Rights, Equal Opportunities for All."

The legislation now under consideration, H. R. 4453, "A bill to prohibit discrimination in employment because of race, color, religion, or national origin," and cited as the Federal Fair Employment Practices Act, comes under the scope of these objectives.

At our last biennial national convention, convened in Salt Lake City, Utah, September 3 to 9, 1948, JACL delegates unanimously went on record urging the enactment of fair-employment-practices legislation on Federal, State, and municipal levels.

In accordance with this mandate, various chapters throughout the Nation have assumed, and are assuming, prominent roles in the many campaigns to secure city and State fair employment practices laws. At the same time, all 80 of the chapters and committees in 38 States and the District of Columbia which comprise the national organization are joined in support of the present effort to enact Federal legislation eliminating racial discrimination in employment.

We know of no other legislation that will have more far-reaching consequences for good than this.

We know that by eliminating race and religion as factors in employment, more effective use can be made of the manpower available, to the end that the productive capacities of our Nation may be increased and the national income and standard of living for all Americans materially raised.

THE PREWAR EMPLOYMENT PICTURE

To fully understand the present employment picture with reference to the Issei (first generation, immigrant Japanese who by law cannot become naturalized citizens) and the Nisei (second generation, American-citizen Japanese), it is necessary to review the situation that existed prior to World War II.

At that time, about 95 percent of all the Japanese in this country, citizens and aliens alike, lived in 11 far western States. Nearly 90 percent resided in 3 States—California, Washington, and Oregon.

For years, a small but powerful minority in the West, particularly in California, was exceedingly hostile, and vocal in its hostility, toward persons of Japanese ancestry. The obvious result of this animosity—subsequently expressed in restrictive covenants and such discriminatory legislation as alien land laws which barred immigrant Japanese from purchasing and owning agricultural lands—was to force Japanese in the urban areas to build up local communities within cities, often referred to as "Little Tokyos."

Job discrimination was so extensive that the situation as late as in the thirties can best be described as similar to that which still exists in the South against the Negro.

Most Issei operated their own small business enterprises, entering in the main to the Japanese community. And the Nisei, by and large, could only look to these few Issei enterprises for employment. Working conditions were poor and wages low. If employment outside the Japanese community was desired, gardening, housework, clerking, and other "menial" tasks were about all they could find.

Nisei, many of whom were college graduates, were forced to accept work in produce and fish markets, grocery stores, tailor shops, and nurseries. In fact, at one time, it was the boast of a Los Angeles operator of a chain of super food markets that only Nisei with at least a bachelor's degree need apply for employment.

Doctors found a place for their service and ability only among their own people. Lawyers, accountants, and newspapermen faced the same situation.

Even when defense industries—aircraft, shipbuilding, and the like—were opened up on the west coast and skilled help was badly needed, qualified Nisei engineers, draftsmen, construction experts, and stenographers, as well as ordinary laborers, were refused employment simply on the basis of race. Negroes, Mexicans, and even American Indians were also rejected for defense plant jobs because, in the opinion of employers, "white" persons would not work side by side with either them or us.

When the President's Fair Employment Practices Committee visited the west coast for the first time in October 1941, JACL testified before it in Los Angeles to the effect that persons of Japanese ancestry, no matter how well qualified by education, training, and experience, were denied employment in defense establishments. Immediately thereafter, however, because of the corrective action taken by the FEPC, qualified Nisei began to be considered and accepted for employment in the comparatively "high-paying" aircraft and shipbuilding industries.

Because of this experience with FEPC, we are convinced that Federal legislation on this subject is not only necessary but that it will also be effective.

THE EMPLOYMENT PICTURE DURING THE WAR

Early in 1942, the Army evacuated—without trial or hearing—all persons of Japanese ancestry from the west coast to 10 huge camps in the interior. The War Relocation Authority was created by Executive order to supervise our "relocation."

Late that same year, the WRA initiated a program of resettlement, of attempting to place the Nisei and Issei in its custody in normal communities in the Midwest and the East. A special section was established within the WRA organization and was charged with this responsibility. Relocation offices were set up in key localities, like Chicago, Cleveland, St. Louis, and New York. Under the auspices of the WRA, local community committees were organized to aid in finding adequate housing and jobs for those of us who desired to leave the centers.

Although it must be conceded that there was a definite manpower shortage at that time, it should be kept in mind that persons of Japanese ancestry were suspect and associated with the enemy in the Pacific, that most people outside the west coast had never seen a Japanese person, and that housing was critical for the general public.

In spite of these difficulties and many others, including those of local prejudices, the experience of the WRA in its resettlement program demonstrates quite conclusively that a Government agency, if it sincerely wants to do a job, can accomplish relative miracles. The WRA not only did a job of education on local community levels but also found employment and housing for those who desired them, of whom there were more than 50,000.

Nisei and Issei for the first time were permitted to work in professions and jobs for which they had been trained. Bookkeepers who had worked at fruit

stunts were now accountants; civil and chemical engineers who had once thought that they were destined to spend their lives as wholesale market swamphoppers found employment with construction companies, electrical equipment manufacturers, and municipal authorities. Doctors, dentists, and pharmacists found clients outside the Japanese community. Stenographers and secretaries found they could command excellent wages, instead of working for a pittance in Japanese concerns.

While the entire evacuation process involved many bad features, one on the credit side is that persons of Japanese ancestry found general acceptability in the community at large, that they were considered for employment on the basis of their individual qualifications and not rejected simply because they were Japanese.

This is not to suggest that persons of Japanese ancestry encountered no discrimination; it was wartime and as was expected there was a certain minimal level of discrimination based almost solely on the fact that because of evacuation the Issei and the Nisei had become identified in the public mind with the Japanese enemy. As resettled Issei and Nisei became known as individuals to their neighbors, and as the American people became aware of the record of Nisei in our armed forces, the public generally dropped an attitude of suspicion and in most communities was most generous in its understanding and support. Certainly there existed no definite pattern of prejudice and bias similar to that on the west coast before the war.

THE POSTWAR EMPLOYMENT PICTURE

With the termination of hostilities and the return of approximately 65 percent of the evacuated Japanese to their west coast homes, it was found that discrimination against persons of Japanese ancestry along the Pacific slope had subsided noticeably. True, there were, and are, numerous areas of discrimination. These will be brought out in sharper detail later in this testimony. However, the over-all situation is a tremendous improvement over the prewar picture.

Of course, unless Federal legislation for fair employment practices is passed, if joblessness increases materially, it is quite conceivable that once again persons of Japanese ancestry may be singled out for discriminatory treatment solely on the basis of race, that on the west coast at least the Issei and the Nisei may be the first fired.

For a more detailed analysis of the current situation, here is a break-down of situation with respect to several communities in the United States.

SEATTLE

Statistics prepared by the Institute of Labor Economics of the University of Washington clearly illustrate the position enjoyed by persons of Japanese ancestry in the Seattle employment picture.

Job classification	Percent of total Japanese employed by industry	Percent of all employees
Professional and semi-professional.....	2.81	8.78
Managerial and official.....	0	5.35
Clerical, sales, and kindred jobs.....	18.87	31.29
Craftsmen, foremen, and kindred jobs.....	29.95	11.74
Operative and kindred jobs.....	11.32	26.69
Service workers, except domestics.....	32.75	10.75
Laborers.....	0	5.40

It can be seen from this chart that Japanese Americans tend to be employed most frequently as craftsmen and service workers. An earlier study by the Department of Sociology of the University of Washington indicated that a disproportionate percentage of employed Issei and Nisei find employment in the "operative" and "service worker" classifications.

Both of these studies reveal that job opportunities for Japanese Americans are inferior to those for whites, except as service workers or craftsmen. The same holds true for other racial and religious minorities in the Seattle area.

A survey of union membership by the Institute of Labor Economics demonstrates the pattern of discrimination against Japanese Americans as compared with nonminority groups:

Job classification	All union members	Japanese-American members
Clerical.....	11.68	1.04
Craftsmen.....	23.77	.62
Operatives.....	28.71	85.54
Service.....	19.09	28.11
Laborer.....	4.79	8.79
Professional.....	1.96	0

This chart shows that Japanese Americans who are union members tend to find employment relatively more frequently in the "operative" and "service worker" classifications, while only a negligible number are able to find jobs as union members in such obviously preferred positions as "clerical" and "craftsman" jobs.

Of 60 unions surveyed by the institute, it found that 12 unions with 14 percent of the total union membership in Seattle had no members of any of the racial minority groups. In unions having 45 percent of the total union members, more than 98 percent of the members were white. In only 4 unions with 13 percent of the total members was the percentage of nonwhites higher than 5 percent.

Twenty-six unions with 32 percent of the total union membership had no Japanese American members.

It is significant to quote from the institute survey concerning employment agencies. In part, the survey declares: "Almost universally, employment agencies report difficulties in placing nonwhites. Employers seldom state a racial preference when requesting employees * * * however, employment agencies generally know the preference of specific employers * * * and rarely send out nonwhites to jobs where they may not be accepted."

"Agencies which deal primarily with racial minorities, such as Japanese, report that in placing members of the particular race in question, members are not always placed in jobs where they are best fitted. This is particularly true of technical and professional persons who frequently must take jobs as laborers or service workers."

"The employment placement divisions of the University of Washington, whose function it is to place technically and professionally trained individuals, report that the placement of racial minority groups in private industry is difficult, if not impossible. These individuals are generally placed in Government agencies, or in Government-controlled agencies."

It should also be noted in passing that at the peak of war production in January 1945, 5.2 percent of the total employed group was nonwhite. In January 1947, with the cancellation of war contracts and the abolishment of the wartime FEPC, nonwhites represented only 2.1 percent of the total employed group. This is a graphic illustration of how an FEPC can contribute to the elimination of job discrimination based on race.

By 1947 the King County Employment Service in a survey of the Seattle area reported: "The effects of all-out discrimination against color minorities became crystal clear."

The Urban League reports that the dominant Teamsters' Union still refuses to accept into its membership Negroes, Japanese Americans, and other minority groups. An instance of a Japanese alien who has signed up with the Teamsters' Union, however, has been called to our attention. In this case, he has all the privileges of a union member except that of attending meetings and voting.

This smacks of the prewar union practice of allowing Japanese-Americans to obtain work permits on the payment of full dues but refusing them all privileges except that of working at a job.

Since the passage of fair employment practices legislation in the State of Washington this spring we have been informed that the unions are becoming more liberal in their outlook and are permitting minority groups to join their organizations on a full participation basis. One report on a union which previously refused Japanese American members tells of its business agent calling on their latest Nisei member and advising him of 100 percent protection

and cooperation even to the extent of discrimination against him by his fellow union members.

The FEI law in Washington has not been in operation long enough yet to determine its effect on general employment in industry, but it is expected to have a most salutary result.

SAN FRANCISCO

The California State Employment Service reported that orders placed for workers from the so-called San Francisco Bay area carry the disturbing notation that 75 percent of the employers do not want Orientals, and that 90 percent do not want Negroes. These figures applicable primarily to durable and nondurable goods industries, manufacturers with retail outlets, and those engaged in processing consumer goods.

There are also noticeable employment barriers among white-collar workers of minority groups.

Nisei veterans attending school report that frequently they have been refused permission to take examinations for private jobs until they have completed their courses. Non-Nisei veterans attending the same schools, in like circumstances, often are permitted to undertake such advance examinations.

In Federal, State, and municipal civil service, there is a marked acceptance of minority groups. Japanese-Americans report there is virtually no discernible bias in the selection or promotion of workers for most jobs. In this connection, it should be noted that civil service pays considerably less than private industry.

In the field of private employment, however, the reverse is true. Handicapped veterans of racial minorities, for example, find the natural prejudice against disabled veterans heightened in their cases. We do not know of a single instance in which a Nisei amputee veteran has found suitable appropriate employment.

Japanese-American girls, until recently, experienced little bias in obtaining jobs, mostly as secretaries and stenographers. Now, however, with the employment situation tightening, job placement is becoming increasingly difficult.

Several girls have reported that the Metropolitan Life Insurance Co. ran help-wanted advertisements in the local newspapers. When Nisei applied, they were told that the jobs had been filled. The newspaper advertisements continued to appear, however, long after the Nisei girls had been turned down.

In San Francisco, as elsewhere, the situation with respect to unions is spotty. John Lundberg, president of the Sailors' Union of the Pacific, has flatly stated that as long as he is president he will see that neither Negroes nor orientals are accepted as members. Automotive Machinists, Local 1805, informs minority applicants the organization is not a union but a lodge, and, therefore, membership is strictly invitational. Across the bay, however, the Oakland Automotive Machinists do accept Negro and oriental members.

The complete absence of racial minority groups is also noted in such unions as metal trades, marine engineers, bartenders, and maintenance engineers. Likewise, the Cooks and Bakers, Local 44, Miscellaneous Local 110, and Amalgamated Clothing Workers of America, Local 42, have been positive in stressing the democratic nature of their respective unions.

Our west-coast office reports that a Nisei returned to his bay region home from Detroit and found employment in a garage because of his specialized knowledge of the hydromatic drive. Several days later, the business agent of the local union sought him out to inquire into his union membership. When the Nisei replied in the negative but said he would be happy to join, he was told that the union could not accept him. Since the firm was a closed shop, he was released over the objections of his employer.

Another type of discrimination relates to wages and salaries. We are told of a case of a chief chemist in a condiment plant who was paid less than his own assistants. When questioned as to why he permitted such discrimination, he replied: "This is more than I ever made. If I quit, I couldn't make as much in another job. Besides, this is the first time that I've been able to head a department and that's worth something."

CHICAGO

In contrast to the west coast, Japanese Americans are engaged in numerous occupations and many levels of employment, from unskilled to the professional, and in many instances have been sought out as highly productive and desirable employees.

The situation, however, is not as healthy as it appears on the surface. Demand for Issei and Nisei is primarily in the semiskilled and lower-income occupations

where their high productivity at average pay scales or less actually results in an indirect form of exploitation.

The same pattern of discrimination against persons of Japanese ancestry in unions is noted here as elsewhere. The AFL Building Trades Unions are closed to us. One Nisei was accepted on a temporary basis in a lithographer's union but was denied full membership. The Barbers' Union has closed its membership also, as have unions connected with refrigeration and air-conditioning.

A law school graduate was refused employment by the Chicago Title and Trust Co. on the basis of his racial background. A Nisei war veteran applying for a position with Montgomery Ward was rejected. He was advised that as a matter of company policy Orientals would not be hired in supervisory capacities.

Two Chicago railroad terminals employ Japanese Americans in their baggage rooms; the third will not.

A number of employment agencies will not handle Japanese American applications for employment.

Because of the generally high manipulative proficiency of Japanese-American women, many are employed in the garment industry as power machine operators, although majority are employed in common dras on a piece-rate basis.

The largest demand for Issei and Nisei is in the domestic field.

NEW YORK

It is heartwarming, at this point in our statement, to report on the situation in New York City.

Prior to the establishment of the State Commission Against Discrimination, documented instances were reported where Nisei, especially girls seeking clerical positions, were refused jobs solely on the basis of race.

Since the establishment of the State commission, similar cases have been handled in such a fashion that the general discriminatory pattern which existed (as much among employment agencies as elsewhere) is being broken down all along the line. Thus, even where Japanese Americans have not had actual impact against discrimination, the existence of the State FEP law and the State commission has helped open new fields of employment.

Cited below is an actual example of how the commission has operated to solve the case of one Nisei war veterans refused employment because he was Japanese. This report is taken from the Commission files.

"Complainant referred to respondent for a position by an employment agency was informed by the interviewer that he could not be hired 'because he was a Jap.'"

"Respondent's main contention.—The respondent admitted that the complainant was not employed because he was Japanese. The main reason for denying the complainant a job stems from the fact that the foreman of the plant is violently opposed to Japanese. His son was killed fighting the Japanese. The respondent owner claims that no amount of objective reasoning was able to change the foreman's view concerning these people. Therefore, since it was a choice of keeping his foreman or hiring the Japanese American, he chose to keep his foreman. The respondent personally wanted to hire the complainant mainly on the basis of his military record with the United States Army.

"Commission's findings.—The commission requested that the respondent should utilize further efforts to persuade his foreman to change his hostile attitude toward the Japanese and to report to the commission the results of such efforts. The respondent assured the commission that his employment policies and practices will be in accord with the provisions of the New York State Law Against Discrimination.

"Respondent's letter to the commission.—'In reference to the commission's request concerning the 'resentment' manifested by our shipping foreman toward employing an American citizen of Japanese ancestry, we would like to advise you herewith that after a thorough discussion of the matter with the above employee, he is now quite convinced that he used the wrong judgment in allowing his war feelings to run in the wrong channels and he realizes that his actions were due to hasty thought.

"'You may be sure that in the future there shall be no discrimination against any American regardless of his race or creed in our firm whether in the shipping department, or in any other department of our organization.'"

This case exemplifies the effective administration of a fair employment practices commission in the handling of an individual instance of discrimination.

On the other hand, these same FEPC commissions can exonerate firms and industries from being subjected to unfair and unjust charges of racial discrimination.

In another New York case, a Japanese-American complained that a plant refused to hire him simply because of his race. Investigation by the commission proved that the applicant was in fact not qualified for the position.

We believe that this aspect of FEPC laws is generally overlooked.

SOME CONCLUSIONS ON THE EMPLOYMENT SITUATION

While perhaps the over-all employment situation as far as persons of Japanese ancestry are concerned is better than it was before World War II, it is abundantly clear that job discrimination does exist at this time, with—as should be normally expected—the greatest discrimination on the west coast and the least in communities where Japanese-Americans are relatively new to the area.

During wartime, persons of Japanese ancestry obtained better jobs than ever before. They found that they were accepted by their fellow workers and that they could do the work required in a satisfactory manner. Now that employment opportunities are becoming fewer and many factories, industries, and officers are discharging workers, we fear that Japanese-Americans will be the first to be relieved, indiscriminately and without regard to seniority, ability, or worthiness.

This is the pattern on the west coast, a pattern that may be followed in other areas as employment continues to decline from wartime highs.

And this is not the complete story.

As with other minorities, it is not a simple task to discover exactly how extensive discrimination actually is against persons of Japanese ancestry. Those who have met rebuffs in employment dislike making this fact known. Others will not make an effort to obtain jobs in those fields, or in particular plants, where they have learned by advance word-of-mouth knowledge that racial discrimination is a policy of the business.

Still others, and many reluctantly, decide against certain vocations, professions, trades, and fields of work because they fear that their opportunities for employment are practically nil. Thus, many talented and capable students are forced to study subjects for which they have little interest and less real ability. The end result is that the Nation suffers.

THE NEED FOR FEPC LEGISLATION NOW

Because the right to work is synonymous with the right to live, JACL feels very keenly that Federal fair employment practices legislation is a clear and pressing need. Moreover, because the right to enjoy a standard of living commensurate with one's ability and experience should not be dictated by color lines, we urge the immediate passage of legislation outlawing racism in employment.

Municipal and State laws are only a part of the answer. A substantial section of American business is interstate in scope, and only Federal legislation would adequately cover this vast part of commerce and industry which would be partially, or negligibly, affected by local FEPC legislation.

Nor do we look upon FEPC as a "policing" measure. Experience with such laws on the State level, and nationally during wartime, has proved over and over again that its primary strength lies in education, that it exercises a positive influence in eliminating job discrimination, more because it poses a background threat against those who would deny an applicant a position on account of his race, color, or religion than by serving as a police weapon to force employers to hire anyone without regard to his own personal freedom of hiring and firing.

We understand that so far the New York commission has found little necessity to employ the sanctions available to it. We have already quoted an example in which the New York commission determined after investigation that charges of arbitrary discrimination were unfounded.

JACL in no wise disagrees with the obvious need for a continuous educational campaign. But the right to work, and the need for bread, cannot wait until all 140 millions of us are taught that this type of discrimination is not only un-American and undemocratic but also uneconomical.

Federal fair employment practices legislation will not of itself eliminate either prejudice or hate from the hearts of men. Fair employment practices laws can, however, destroy legal sanction for arbitrary and unheeding discrimination.

We who have been the victims of unfair employment practices do not ask for special favors or privileges: we ask only that we be given the right to apply for a job on the basis of our ability and experience, that we be permitted to keep that job and to be promoted solely on the showing we make as an individual, and not because we are a member of a particular race or religion. We believe that the legislation now under consideration will begin to provide us with this opportunity.

It seems to us a curious anomaly that so many so-called leaders of industry are opposed to FEP legislation. Surely their wartime experiences when men and women of all races, colors, and religions worked shoulder to shoulder to achieve victory should have convinced them of the efficacy of a tolerant and understanding labor policy.

It seems fundamental to us that industry would prefer to entrust its machines and its productivity to the better qualified applicant of worker than to a person of lesser qualification, even though the latter's skin is of the accepted color.

The elimination of discrimination in employment practices would hold business and the entire economy immeasurably; would perhaps, in the opinion of such an expert as Elmo Roper, be enough to cushion a recession; and would provide new limitless markets for new products which our industrial genius could turn out.

The recent report of the President's Committee on Civil Rights summed up this dilemma in our employment policies in these words:

"The United States can no longer afford this heavy drain upon its human wealth, its national competence. The loss of a huge, potential market for goods is a direct result of the economic discrimination which is practiced against many of our minority groups. A sort of vicious cycle is produced. As a result, their purchasing power is curtailed and markets are reduced. Reduced markets result in lower production. This cuts down production, which, of course, means lower wages and still fewer job opportunities. Rising fear, prejudice, and insecurity aggravate the very discrimination in employment which sets the vicious circle in motion."

Leo Cherne estimates that the total cost of discrimination in our country is between 15 and 30 billions a year. From this view alone, racial discrimination is a luxury which not even as wealthy and productive a nation as the United States can afford.

Elmo Roper, lecturing to the Institute for Religious and Social Studies, declared in part: " * * * we are fast becoming the only major nation on earth which has its economy geared to private ownership of resources and the means of production. Increasingly, people of other nations and even our own public will scrutinize our form of economy to make certain that it really meets the needs of all our people in the best possible manner. We are approaching the day in international affairs when we will no longer be able to muddle through a situation with [such] enormous wastage."

Because we believe that fair employment practices legislation will aid industry, members of all the so-called minority groups, and all Americans generally, we recommend the passage of the legislation under consideration.

Because we know from our experience with the wartime FEPC, State and local laws, and the special work of the War Relocation Authority in finding jobs and housing for a dislocated and "unpopular" minority, that fair employment practices commissions can be effective and efficient, we endorse Federal legislation defining fair employment practices and creating a commission to enforce those practices.

Because we Americans of Japanese ancestry desire to share as full partners in this Nation the responsibilities which our America must bear as the champions of freedom in this troubled and suspicious world, we join with the more than one-tenth of our population who are the innocent victims of color intolerance to urge the immediate enactment of Federal fair employment practices legislation, not because it will be an overnight panacea for all our ills but because it will represent a tremendous step forward in implementing our democracy for millions of Americans.

Mr. MASAOKA. We have discovered, Mr. Chairman, as you probably well know, that the pattern of discrimination throughout the United States is pretty much the same against all national and minority groups, differing only in its direction in various sections of the country. In the South it has been against the Negro; in the East it has been against the Jew and various other groups. On the west

coast, it has certainly been against persons of Japanese ancestry. And the same kind of vicious, unfair labor practice which has been directed against the Negro in the South has also been directed against us in the west coast.

We have found, for example, that the same type and the same kinds of labor unions which denied membership to Negroes, to Jews and others, also denied to us the same membership, thereby denying us, as in certain locations, practically the right to earn a living. We find that the same kinds of skilled industry, paying rather high wages, have the same tendencies to discriminate against persons of Japanese ancestry, as they have against others.

I make my plea not only, however, for persons of Japanese ancestry, but for the Mexican-Americans, the American Indians, and all other Asiatics and all other minority peoples who are discriminated against today on the basis of race, that fair employment practice legislation on a national level is needed, is needed badly, in order to save and conserve the manpower of this Nation, in order to refute the Communist charges of racial discrimination in the United States, but above all, to give to the individual American, irrespective of his race, color, creed, or national origin, the common dignity to which every human individual is entitled.

We persons of Japanese ancestry have a particular experience we would like to recite to show and to demonstrate how efficient and effective a national agency in the field of employment can be with persons of Japanese ancestry or any other minority group.

As the Congressman from California knows, immediately following the outbreak of World War II, we persons of Japanese ancestry, without trial of any kind, were evacuated by the Army and placed in virtual concentration camps in 10 interior locations. We were placed under the supervision of a Government agency created by Presidential order, called the War Relocation Authority. This War Relocation Authority late in 1942 and early in 1943 decided upon a program of resettlement for persons of Japanese ancestry confined within these relocation centers. This Government agency set up a special office, and this special office went out, deliberately, in the Midwest and the East want to do a job of resettling persons of Japanese ancestry.

We cite this particular example because we want to point out that at that time persons of Japanese ancestry, citizens and aliens alike, were suspect by their own Government, and the people throughout the United States who had seen persons of Japanese ancestry before were afraid and frightened off. They thought we were disloyal. They thought that we engaged in sabotage and espionage, although all those facts were in error. Yet this Government agency which wanted to do a job went into the Midwest and the East and even into the South, organized local councils to educate the people, people of good will. They helped to find employment for persons of Japanese ancestry, even in wartime, when many of us were confused with the Japanese enemy. Not only did they find employment for us, but they found housing for us.

Now, if a Government agency in good faith can do that in a period of crisis and hysteria, we persons of Japanese ancestry believe that a fair employment practices committee, if fairly and conscientiously administered, can do an equally fine job.

Now, in New York State, we have found that persons of Japanese ancestry before the passage of that law were discriminated against. Recently we find this to have happened after that State enacted its fair employment practices law. An American employer refused to hire a well-qualified Japanese-American former serviceman simply because he was a Jap. One of his sons had been killed in the Pacific fighting against the Japanese enemy, and somehow he could not distinguish between this father of a Japanese-American veteran and the enemy who had killed his son.

The Japanese-American veteran complained to the State commission. The State commission investigated, found that this particular Japanese-American was qualified. They went to this employer and pointed out to him that his act was not only un-American, but truly a denial of the very things for which his son had fought and died. The employer was convinced.

At the same time I think many of us overlook another aspect of fair employment legislative acts, namely that it often serves as a protection to the employer himself. Many employers are unjustly accused of discrimination because of race, color, creed, or what not. Take another example of the Japanese-American under the same State, New York. This Japanese-American claimed to the commission that he was discriminated against because of his race. The investigation proved that this Japanese-American was not qualified for that job, and thus in this particular aspect, at least, the commission did an actual service to the employer and to the community at large.

Therefore, I would like to point out to this committee that fair employment practices legislation and a working committee cannot only help in placing qualified persons of all races and ancestry in the United States in their proper fields of work, but it can also aid the employer.

My particular statement goes on and talks about civil service, and on page 6 I would like to amend my statement. On page 6 I point out that in Federal, State, and municipal civil services, there is a marked acceptance of minority groups. Japanese-Americans report that there is virtually no discernible bias in the selection or promotion of workers for most jobs.

This morning I received a letter from a former public administration professor of the University of California pointing out that in the State civil service of California there has been and is discrimination against minority groups. In the State of California, as elsewhere, as the chairman knows, the two, three, or four highest ranking members who take an examination are qualified to take a job, and the appointing board selects that individual from the top four. For the past 3 years, a Japanese-American has received the highest grades in competitive examination in the State of California, 15 points higher than the next person. Yet for three consecutive years, someone else has been appointed.

Now, President Truman has pointed out the difficulty of obtaining in our Government service qualified men to handle highly important administrative posts. Certainly the Government at least ought to see that there is no discrimination in order to encourage inspired and talented young men to enter Government fields.

There is one other comment I would like to make before closing my statement. We believe that it is good for American business not to

discriminate against minority groups, for as the President's Committee on Civil Rights pointed out, discrimination in employment against minority groups depresses production and starts a vicious circle. Minority workers are not able to receive the wages to which they would be entitled if they were accepted on the basis of their education, ability, and talent. If they were able to receive those wages, they would be able to purchase more, and by having the money to purchase more, they would thereby cause industry to produce more, starting a circle, not a vicious circle, but a circle of Americanism and prosperity.

Mr. Chairman, later this afternoon I am meeting with a newspaperman who has been authorized to come from Japan by General MacArthur. He is going to see me about racial conditions and discrimination against persons of Japanese ancestry and other persons in the United States. As pointed out by witness after witness, the people in Asia are truly interested in seeing whether America can practice what it preaches, and I hope to be able to report that your committee will soon report out fair-employment practice legislation, that the House and the Senate will adopt the legislation.

We admit that it will be no immediate panacea, but we do believe that it is a step in the right direction and a step which will implement working democracy for millions of minority Americans.

Mr. Chairman, I would be very happy to answer any questions which you or other members of your committee may have.

Mr. POWELL. That was a very fine statement.

Have you any questions, Mr. Burke?

Mr. BURKE. No questions.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. Would you say that the situation in California in regard to discrimination against the Japanese-Americans is better now than it was before the war?

Mr. MASAOKA. Very much, Mr. Congressman.

Mr. NIXON. In fact, we are faced with what at first glance seemed to be a contradictory situation, in which the war has actually improved the situation. I have the same opinion, coming as I do from an area in which we have a considerable number of Japanese-Americans, and I might say as I was telling the chairman of our subcommittee while you were testifying, a group which is as great a credit to the community from an economic and cultural standpoint as any group in the community. I have noted myself a considerable improvement in the situation there.

Mr. MASAOKA. There is a considerable improvement. However, I think there are dangerous overtones to the over-all picture. For example, there is a Japanese-American chemist who is a head chemist of a food plant in Berkeley, Calif. He is the head chemist; yet 12 other assistant chemists receive more than he does.

We went to him and said, "Why do you continue to do this?"

He said, "Well, it is the best job I have ever had. It is better than I can get anywhere else, and I suppose the prestige of being the head of my department is worth something."

In other words, the situation is better, which we admit. But it still could be much improved. And we believe that fair-employment-practice legislation of this kind would be helpful.

Mr. NIXON. Yes. I think in that connection a related fact would be of interest to you. You recall the Judd bill which passed the House recently?

Mr. MASAOKA. I recall it very well.

Mr. NIXON. I imagine that if the Judd bill had come up before World War II, I as a Member of Congress from my district in California would have received a considerable number of letters from the anti-Japanese faction, which I know, of course, did exist, and possibly to an extent exists now. But it was very significant to me that in the consideration of that legislation, I did not receive one letter from the whole State of California in opposition to the Judd bill, and a great number for it.

I think that was an encouraging sign at the present time. I admit, as I have indicated, that that does not mean the problem is solved. There is more to be done. But I think that while California is the State which has been probably most to blame for discrimination against Japanese-Americans because, of course, we have more Japanese-Americans there than other States, there are encouraging signs that in the future we should be able to make even greater strides than we have in the past in eliminating discrimination.

Mr. MASAOKA. Mr. Chairman, for the record I would like to say that the wartime treatment of persons of Japanese ancestry, and particularly the way they have been allowed to come back, is a striking demonstration of the ability of democracy to correct its mistakes. And I think that in a way what Congress has done in the passage of the evacuation claims bill last year, what the House has done in the passage of the Judd bill this year, will serve to illustrate to the peoples of Asia and Africa and elsewhere that the American people, once they know the facts, have a tendency to be decent, honest, and fair in the long run, and that democracy does correct its mistakes.

Mr. POWELL. Thank you.

Mr. MASAOKA. Thank you.

Mr. POWELL. Our last witness for this morning is Judge Hobson Reynolds, of Philadelphia, the chairman of the civil liberties department of the Elks.

I thought that maybe this session I could call you "colleague," but the voters did not see fit to do the right thing, as far as I am concerned.

Mr. REYNOLDS. Well, better luck next time.

Mr. POWELL. I hope so.

TESTIMONY OF HOBSON R. REYNOLDS, GRAND DIRECTOR, CIVIL LIBERTIES DEPARTMENT OF THE IMPROVED, BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE WORLD

Mr. REYNOLDS. Mr. Chairman and members of the committee, as the chairman has stated, my name is Hobson R. Reynolds. I hail from Philadelphia, where I am a magistrate. However, I am appearing here today representing the Improved, Benevolent and Protective Order of Elks, as the grand director of its civil liberties department.

It is both my duty and my concern to keep informed of what is happening to the several hundred thousand members of my organization, most of whom are Negroes. I obtain this information through

written and verbal reports, sectional conferences, and frequent visits to different parts of the country.

Everywhere I have gone I have found that the principal interests and fears of our members are in reference to their opportunities for making a living. Where the so-called recession has set in and workers have been laid off, Negroes have found themselves unable to find other openings, or they have seen Negro workers released in unreasonably large proportions, either because of discriminatory practices or because Negroes were the last hired and are, therefore, the first to be laid off.

It is very fair to say that the Negro who loses a skilled job today has little or no chance of reemployment in a similar position and often winds up in a very menial role. For instance, in my own State, a veteran with 3 years' shipbuilding experience behind him answered an advertisement by one of the companies where he had worked. He was asked at that time when he applied for new employment what he could do. He mentioned, and he wrote, in order: First, ship fitting; second, caulking; and, third, kitchen work. There were openings in all three of the places to which he referred. With his first preference as ship fitting, he was given the lowest job, in the lowest bracket, that in the kitchen.

Now, whereas there is nothing wrong with being hired in the kitchen or hired in the lower bracket, a man with higher skills should not be forced because of his color to accept such a menial position.

For over 20 years, the organization which I represent, the Improved, Benevolent, Protective Order of Elks of the World, has been saying to the Negroes, "You cannot expect opportunity if you do not prepare yourselves." And we have given scholarships to hundreds of our group in order to help to encourage them to prepare themselves, and we have spent millions of dollars in this field. Those scholarships have been awarded to young people who excelled in oratorical contests based on the Constitution of the United States. Thus, they have learned more about the ideals of their country as they strived to win scholarships, and so forth.

You can easily imagine what it has meant, therefore, for these young people to find doors still closed to them, closed even in time of war. And I might say here that the Elks have carried on a very great program, and we have stressed loyalty to our Government. However, we feel, as almost all fair-minded Americans do feel, that if the Negro in this country is willing to be loyal to our flag—and this is the only flag that we know anything about, and I was very happy to hear the chairman say here this morning that the only time a Negro will turn to communism is when democracy turns us down, and that is true, because we do not know anything about communism and are not interested—then there should not be discrimination against the Negro. We know only America, and we love this country. But we think this country should give us the same protection that we give our country. If that were true, you will never have any trouble with Negroes as far as communism is concerned.

In many areas of employment, especially for women, the principal employers are public corporations, with a monopoly on certain kinds of jobs. Despite the public nature of their monopoly status, however, they choose to shut some people systematically out of any opportunity

for employment because of their race and color. This is true in many instances. One of the common things we use every day is the telephone. Negroes pay many thousands of dollars a year to support it. In this country, in many instances, they refuse to hire a colored telephone operator. And you cannot say that the public would not use the telephone because the Negro was answering, because the public would not see the operator, anyhow, and they would not know who she was. So it is just a matter of economic holding down of people or, as Congressman Davenport said just now, small people looking down their noses at smaller people. And I thought the Congressman made a very fine discourse, except for the political note that he put in it. Of course, when he gave Owlett and Mr. Grundy the devil, maybe they deserved it. But I do not think we should refer to politics on any score.

I remember the chairman said this morning that both parties should stop writing planks in their platforms about rights for Negroes unless they intend to do something about it. We have heard enough chin music. And to promise us these things just to get votes from us in our poverty causes resentment, and I hope that the great statesmen we have in Washington today will do something about it. These practices in private life and also in public life also get into the Federal Government. In fact, the Federal Government has been one of the worst that we have had, especially in the hundreds of field offices, north and south. Let me say, I have heard mentioned today a good deal about the FEPC being directed at the South. I do not feel that way about it. I feel that the North is doing just as much in discriminating against Negroes and Jews and other minority groups, especially in the field of employment, almost as much as has been done in the South. And we need it in Pennsylvania—in my State—just as much as we need it in Georgia or anywhere else.

To find a Negro above the menial occupations is a rarity, except here and there where there is purely a political appointment. I am speaking of the Government now. If FEPC legislation, passed by this Congress, did nothing else, it would facilitate fairer employment in the Federal Government and such an example would indeed be a great leverage to bring fair employment into private industry. Really fair employment in the Government service would be one of the greatest steps forward that our Government has taken in years, because they would simply be catching up with science and the times.

Mr. Chairman and honorable Members of the Congress, what my people want is the opportunity to be self-supporting—and we are approximately 15,000,000 strong—to take care of our children, to buy homes to put over our heads, to live without fear of violence. What they want is a chance to prove what they can do. They want to rise and fall as workers, not on their color or racial background, but on their skill and merit. My people, therefore, are unreservedly in favor of a Federal program for fair-employment practice and a commission with authority and funds to promote fair employment through education, example, and the influence of our great Nation.

In my own State of Pennsylvania, employers are against a State FEPC because they are afraid of losing business to non-FEPC States. That is, they give us that reason. However, I do not agree with it. But I believe if we were to pass a Federal FEPC, it would be much easier to get a State like Pennsylvania to get in line.

If there were a national FEPC program, all business and all States would come under it, and all would fare the same. I know many employers and many union leaders who are greatly in favor of FEPC legislation, as it will strengthen their hands in dealing with their workers and members.

In addition to lowering the barriers to job opportunity, an FEPC program will also be a great morale booster to my people. They will know that some official agency is working full time in their behalf. They will feel encouraged to keep their children in school. It will give incentive to these children. For the courts of Pennsylvania, especially in Philadelphia, the area where I reside, the question has come up in the common pleas, municipal, magisterial, and all other courts. Why is it that the Negro crime rate is so high in those areas? And I often say to them that "You white people will have to pay one way or the other; you will either give Negroes an opportunity to make a living and vindicate themselves and become good citizens, or you will be taxed to take care of them in Federal prisons or in local prisons or on welfare."

I think it would be better to have the right kind of laws passed to give Negroes an opportunity to prepare themselves in order that they might be worth-while citizens, bringing credit to all communities.

My people have been overwhelmingly loyal to the United States all down the years, but our Nation puts an unreasonably heavy and burdensome load upon us when on the one hand it expects our unflinching loyalty and support but at the same time closes so many doors to us, makes us feel so unwanted. When the Congress passes a law forbidding discriminatory employment, based solely on race, color, religion, or ancestry, it will greatly ease the psychological, emotional, and spiritual burdens which Negroes have been forced to bear.

Speaking for the Improved, Benevolent, Protective Order of Elks of the World, I can say that our 500,000 members and their families in every State of the Union are 100 percent in favor of Congress passing fair-employment legislation this year, and, after examining H. R. 4453, we have found that it contains the principal elements which we consider important in a bill of this kind—a clear statement of public policy, an enforcing agency, provision for education and conciliation, residuary compulsions for dealing with the few people who flout every law, and opportunity for appeal to the courts.

The eyes of my people are on this Congress, asking and praying that you will establish an FEPC agency of a nature that can help all of us to live up to our highest American ideal of "Live and let live." Opportunity for employment is fundamental to living. An FEPC program will be law applied to the very fundamentals of existence.

Please accept my thanks, Mr. Chairman and members of the committee, on behalf of the Improved, Benevolent, Protective Order of Elks of the World and the more than one-half million members which it represents for allowing us to come here and encourage you to do the things that America is willing to accept without any trouble and without any fear of any bad omen that might come.

Thank you.

Mr. POWELL. I have a few questions, Judge Reynolds. You brought out one thing that has not been brought out, and that is the fear on the part of some employers that a State FEPC would put them at an unfair advantage in competition with goods made in non-FEPC States.

That is very true. That is one of the reasons we need a Federal FEPC, to standardize conditions, especially in interstate commerce.

Mr. REYNOLDS. That is very true. I was a member of the State legislature in 1935, with my good friend Dr. Shepard, who sits back there. And at that time, I introduced the equal rights bill of the State of Pennsylvania, which made it against the law to discriminate against Negroes or anybody in any of the hotels.

One of the things they said there was that this would run trade away from them. But we told them it would not, because in New York they have the same law, and in New Jersey, and in all the surrounding places, and it has not. So the Manufacturers Association, led by the same man that the Congressman bawled out, Mr. Grundy, put up that big excuse that if they passed that law, it would drive industries away from them, and we are appealing here that we put it on the Federal books so that all States will be on an equal basis.

Mr. POWELL. Another thing I would like to ask you, if it does not embarrass you, is, why is it in Pennsylvania, a very enlightened State, where the Governor has spoken several times in favor of FEPC, where the Democratic Party is committed to it, where many outstanding Republicans such as you are committed to it, that you cannot get a State FEPC law through?

Mr. REYNOLDS. It is the first time we have been turned down. Maybe we might get a repercussion from that at the next election. Personally, even though it is my party that is in power there, I hope that happens.

Mr. POWELL. I feel the same way you do with regard to my own party.

Mr. REYNOLDS. I think our Governor was for it up to a point. Of course, he might have the bug of wanting to come down here to the Senate after awhile, and he wanted to go along with some of the powers, I suppose.

Mr. POWELL. I see.

Mr. BURKE?

Mr. BURKE. It is probably true that you might have some repercussions from it in the next election. We had the same thing in Ohio.

Mr. REYNOLDS. We have not gone through a State election since we had it turned down. Of course, I hope we do not have too much repercussion at the election this fall, because I come up for reelection myself as a magistrate.

Mr. BURKE. We had a city FEPC ordinance that was defeated.

Mr. REYNOLDS. We have one in Philadelphia, and no one has complained about it at all.

Mr. BURKE. I would like to go back to the opening part of your statement, where you cite two reasons for bad employment conditions generally, and first, of course, is discrimination in employment, and the second you say is that many Negroes were the last hired and therefore the first laid off. That, of course, would be under a seniority system, and I do not believe it would be fair to go to some sort of super-seniority system that would guarantee jobs because of race.

Mr. REYNOLDS. No. But if we had had an FEPC bill 25 years ago, Negroes would have been in there a longer time. So we have to start somewhere. If we get one now, 25 years from now they will have been in there for 25 years, or 10 years from now, they will have been in

for 10 years. We would not want to push them up on the list because they are Negroes. If we start now, Negroes will be old in their jobs from now on.

Mr. BURKE. Yes. If we set up some sort of superseniority system, the net result will be a lot of repercussions the other way.

Mr. REYNOLDS. Yes.

Mr. BURKE. Now, I know in many plants where there is a recession in employment, where Negroes who do have 18 or 20 or 25 years' seniority, now for the first time in the history of industry are able to maintain the jobs that they were upgraded to because of the work of the unions on seniority.

Mr. REYNOLDS. I think you have the right interpretation of my statement, and that is that from now on that would happen. We would not want to supersede anybody who has more seniority than a Negro. But it is unfortunate because of the lack of FEPC prior to World War II that Negroes do not have any seniority.

Mr. BURKE. I thought it would be well to explore it and get a clear interpretation of it.

Mr. REYNOLDS. I am glad you did. And then, with respect to getting trainees in, quite often they will not hire young men because they have not had any experience. They say, you have not had any experience in this line. And then they will not hire them as apprentices because they were Negroes. Therefore, they cannot get in as men, because they could not get in as boys as apprentices.

Mr. BURKE. During the war, and even before the war, we were able in the unions to extend seniority benefits not only to job security but also to upgrading. That was not done overnight, but was over a period of years. We were able to provide training programs in the vocational schools, and so on, and prepared the people for upgrading and better jobs, to take advantage as employees of their rights under the seniority system.

Mr. REYNOLDS. I think you are quite right. We did get some upgrading. I think it has helped a lot, and it will help the condition along a lot, even with what we got during the war. But of course the war is over now and we are about to revert back to where we were.

Mr. POWELL. Mr. Nixon, do you have any questions?

Mr. NIXON. I might say that I appreciate the statement that Judge Reynolds has made. Since the hour is late, I think the statement speaks very well for itself.

Mr. REYNOLDS. Thank you very much.

Mr. POWELL. Is Mr. Fred Wolf, of the Railroad Engineers, here? (No response.)

Mr. POWELL. He was on our schedule.

The committee stands adjourned until Tuesday at 10 a. m.

(Whereupon, at 12:25 p. m., an adjournment was taken until Tuesday, May 17, 1949, at 10 a. m.)



FEDERAL FAIR EMPLOYMENT PRACTICE ACT

TUESDAY, MAY 17, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Adam C. Powell, Jr. (chairman), presiding.

Mr. POWELL. The committee will come to order.

Our first witness for the morning is Theodore E. Brown, research director for the Brotherhood of Sleeping Car Porters, representing that organization and representing A. Philip Randolph, the president of that organization. Mr. Brown.

TESTIMONY OF THEODORE E. BROWN, RESEARCH DIRECTOR, INTERNATIONAL BROTHERHOOD OF SLEEPING CAR PORTERS, A. F. OF L.

Mr. BROWN. I welcome this opportunity to appear here. Mr. Randolph wanted to be present but, unfortunately, he found it necessary to be in the far West at this particular time. One of the reasons he is in the far West is on one of the very questions you are here considering, one of the issues we have before the Federal court involving one of the railroad brotherhoods that I understand is going to appear here this afternoon. He asked me to present to you his statement.

As I said, I welcome the opportunity afforded me by your committee to appear here in behalf of H. R. 4453. A quick passage of this bill by the Eighty-first Congress is vitally necessary if democracy is to have meaning in many areas of national life.

I have followed very closely through the daily press and the radio the statements made by earlier witnesses before this committee. Those who have appeared in favor of the bill have argued eloquently, and I hope convincingly, to this committee for the urgent need at this time for legislation to outlaw discrimination in our national economic life, based upon race, religion, color, national origin, or ancestry.

The question of fair employment practice is of grave concern to me, and it is because of that reason that I have dedicated much of my time and energies in the interest of this issue. I request that you hear the remarks that I shall present in my official capacity as the research director of the Brotherhood of Sleeping Car Porters.

As you may perhaps know, I serve as a cochairman of the National Council for a Permanent FEPC. Mr. Martin Quigley will present the arguments of the council, but I should like to request that you hear, as one of many illustrations, how this question of racial discrimination

is snuffing out the economic life of thousands of Negro railroad workers, solely because of their color.

Before you is a bill designed to enact legislation in the interest of fair employment practice opportunities for all workers, regardless of race, religion, color, or national origin. The tragic display of racial discrimination in the various industries throughout this Nation, North, East, South, and West, has seriously hampered our economic development. It has provided an opportunity to illustrate the most serious and glaring weakness in our avowed claim for a democratic society.

Negro workers in the railroad industry who are competent enough to fill a number of vacancies either by direct hire or upgrading are banned solely because of racial discrimination. Numerous efforts have been made by various means to correct this racially economic injustice. The records of the wartime FEPC and recent litigation in the courts have failed to correct the gradual elimination of Negro locomotive firemen from the Nation's railroads. The infamous non-promotable agreement entered into by the Brotherhood of Enginemen and Firemen and 22 southeastern railroads with the help of the National Mediation Board on February 8, 1941, has resulted in reducing the percentage of Negro firemen from 41.4 percent to 5 percent.

More recently, we in the Brotherhood of Sleeping Car Porters are gravely concerned with the future of the Negro train porter. For more than 30 years the craft of train porters has been a definite craft for many of the Nation's railroads. Recent demands by the lily-white Brotherhood of Railway Trainmen and numerous carriers including the Missouri, Kansas, Texas and Santa Fe Railroads have placed the jobs of veteran Negro employees in jeopardy. This issue is also in the Federal courts, but because of the lack of a definite Federal statute dealing precisely with the question of racial discrimination, we have been unable to resolve this issue with justice to the thousands of Negroes who are involved.

The same type of discrimination which prevails in the railways, also obtains in the public utilities and many other industries throughout the country. The policy of some employers not to employ Negroes is justified by the claim that the Negro workers do not have union cards. Upon receiving this information, some of the Negro workers promptly go to the unions and request the opportunity to join in order to receive union cards to work in a plant under a closed-shop agreement, and they are politely advised that they cannot get union cards until they get union jobs. Thus they are caught between the Scylla and Charybdis of union evasion discrimination and employer discrimination. May I say that this is not true of all unions or all employers, but it is sadly true of far too many. Obviously, the Negro workers are victimized when both the shops and unions are closed. But, may I observe here, that I am by no means opposed to the principle of the closed shop, if the union is open to all workers, regardless of race, color, religion, or national origin.

Not only are the railroads and public utilities guilty of racial economic discrimination, but also most, if not all, of the large American corporations doing interstate business. The oil, aircraft, automobile, food producers, insurance and banking institutions and the many other great corporations which comprise much of the big business in this Nation are guilty of minority discriminatory practices.

Mr. Chairman, your committee need not go any further than examining the hiring practices and policies of the Federal Government itself. Notwithstanding President Truman's bold and courageous directive banning discriminatory employment in the Federal Government, the age-old policy of considering the race, color, religion, national origin, or ancestry of an American citizen is still present in the hiring and upgrading practices of the Federal Government. A strong FEPC law by the Eighty-first Congress will do much to supplement and complement the President's efforts on the FEPC issue.

The achievements of the New York and Massachusetts State FEPC and numerous other statutes on this question in other States, offers abundant proof that this issue can be met by legislative means. However, the nature of American business in its daily intercourse is interstate and, therefore, State FEPC's are hampered in their efforts.

The records of wartime FEPC in placing hundreds of thousands of minority citizens in jobs formerly denied them in the skilled occupations, often with the determined help of certain industrial concerns also illustrate that most of American industry will accept the national policy once it becomes the law of the land.

Objection is raised to this bill on the grounds that it is coercive and that it is an attempt to eliminate race prejudice out of the hearts of employers and the workers, and hence H. R. 4453, stressing education and legislation without enforcement powers, is urged. The fallacy of stereotyped education on FEPC is to pose education as the opposite of legislation with enforcement powers. This is an example of setting up a straw man to knock down.

Legislation, in fact, is an important part of the process of popular education. Legislation provides the arena in which opportunity is afforded for the people in the schools, barber shops, churches, trade-unions, chambers of commerce and fraternal lodges, to discuss, debate and explore all aspects of vital social issues so as to develop sound social-thinking for the welfare of the country. People cannot discuss that which is not brought before them. The fight to secure the enactment of bills into law dramatically presents social questions to the people, and helps to awaken and inform public opinion as to the significance of these questions.

This bill H. R. 4453 is not concerned with race or religious or national prejudice. It deals with only one thing, and that is the practice of discrimination on the grounds of color, religion, national origin, or ancestry, which deprives a worker of a job, or rather his right to live, because on the job the worker receives wages, and with wages he buys food, clothing and shelter, the basis of his life. Therefore, whoever seeks to prevent a worker from securing a job, because of any reason, is seeking to deny him the right to live, which is a very definite nullification of the basic principles of the Declaration of Independence, the Federal Constitution of our Nation, and the Human Rights Charter of the United Nations.

It is a fallacy to construe race prejudice as synonymous with racial discrimination. They are two different things. Race prejudice is an emotion or feeling. Racial discrimination is a practice. While we cannot by law make a white worker love a Negro worker or a Protestant worker love a Jewish worker, or a worker in Boston love a worker in Atlanta, Ga., we can stop the workers from closing the

shops and the unions at the same time. Laws can stop hoodlums from smearing synagogues with swastikas, and cathedrals with the hammer and sickle. They can stop mobs from lynching people for any reason.

I do not condemn the trade-union workers who discriminate against Negro workers and other minorities. Fundamentally, black and white workers do not fight each other because they hate each other, but they hate each other because they fight each other, and they fight each other because they do not understand each other. But if they work together, they will understand each other.

Now, the fair-employment-practice bill, H. R. 4453, does not seek to make white workers, black workers, or Jewish or Catholic workers love each other, but to respect each other's right to work and to live. If laws are ineffective to prevent discrimination, why maintain them to continue discrimination, such as a Jim-Crow car, and so forth?

It is well-nigh axiomatic that the instinct to live in human beings, regardless of race or color, religion or national origin, is so strong that they will fight for the right to work in order to live.

Hence, it is apparent that color wars may beset and plague our country in a recession or depression period, as a result of increased tensions incident to discrimination in employment relations, unless the Congress shows the social vision and wisdom to enact H. R. 4453. For this reason, the enactment of this bill will play an effective and constructive role in achieving social peace in our various communities.

Without fair employment to supplement and complement full employment, the poison of Hitler's fascism and Stalin's communism may get into the blood stream of our country and run to the heart of our Nation. In very truth, there cannot be full employment unless there is fair employment. This is true not only with respect to numbers, but also in relation to the utilization of the skills of the minorities, and it is apparent that there cannot be fair employment without an FEPC law with enforcement powers.

This question of increased racial tensions in the area of employment is not an imaginary but a real danger. A bill lacking enforcement powers cannot serve any useful purpose, because it fails to make economic discrimination unlawful. The 22 southern railroads and the Brotherhood of Locomotive Engineers and Firemen flouted the directives of the President's Committee on Fair Employment Practice in December 1943. The Stacy committee, appointed by President Roosevelt in 1943 to attempt to unravel this problem, was without effect and force. Why? Precisely because the President's Executive Order 8802 had no enforcement powers.

If this was true in wartime, how much more true it is in peacetime, when we do not have a war emergency with which to appeal to the patriotic spirit of employers and unions.

The argument that a law with enforcement powers cannot achieve its objective will not bear examination. Witness the National Labor Relations Act, which served a useful national purpose of providing an opportunity for workers to choose their bargaining agent, without coercion, interference, or intimidation. Before that act was on our Federal statute books, employers discriminated against union workers, just as some of them now discriminate against minorities. The workers were afraid to join unions lest they be fired or not hired. The company union held sway, and the yellow-dog contract was jammed down

the throats of the wage earners. Prior to the Wagner Act, and today with the Taft-Hartley law, violent abuses and recriminations are heaped upon the heads of the American workers who seek to organize.

If we enact this fair-employment-practice measure, H. R. 4453, it will serve as a legislative educational force that will some day make it a matter of history when workers, on account of race or color, national origin or religion, are the victims of the abuses and violence and misrepresentation that are now their unhappy lot.

I feel that the FEPC is not a Negro question—though there are 15,000,000 Negroes in the United States—one-tenth of the population. It is not a minority question—though there are many Jews, Mexicans, Catholics, and other minority groups.

It is an American question. It is real and dynamic democracy here at home where we and the rest of the world can see that the Constitution and the Bill of Rights are not "Globaloney." It will help to make democracy a reality in New York and Alabama, for black as well as white, Jewish, Catholic, Protestant, Mexican, Filipino workers.

This bill does not only serve the cause of better relations for the minorities in America; it also constitutes one of the major bastions of American democracy.

American democracy will support H. R. 4453.

I admit that the question is of such magnitude that the solution must stem from action by the Federal Government. The history of the Federal courts in respect to questions of economic discrimination is rather vague. It seems that the question could be approached by two methods: (1) Specific legislation by the Congress for litigation in the Federal courts; (2) Federal legislation by the Congress creating an administrative agency for the sole purpose of dealing with discrimination for race, religion, color or national origin in our economic life.

Of the two methods, I feel the latter is the more practical. For an administrative agency dealing only with this question could approach it with a greater degree of expertness. The procedure under administrative agencies could be much quicker than that required by the long, drawn-out process generally familiar with court litigation. The complainants would find an administrative agency less steeped with the formal process generally associated with courts. Congress has often created administrative agencies to deal with higher specialized economic problems. We need only to look to the National Labor Relations Act, designed by Congress as an approach to an ultimate solution by the Government in problems affecting labor and management in interstate industry.

We of the International Brotherhood of Sleeping Car Porters salute President Harry S. Truman for his courageous and forthright stand and continued advocacy of the civil-rights program. The fact that both Democratic and Republican Parties endorsed a national statute, outlawing discrimination because of race, religion, or color, would seem to indicate, to reasonable and logical men of good will, that H. R. 4453 will be approved by this session of Congress.

The time has come in the economic and political development of the American Negro and his fellow citizens of minority status, to increase his vigor and determination for all the civil rights that are necessary to remove the shackles of second-class citizenship.

A Federal FEPC, establishing a national policy guaranteeing to all, regardless of race, religion, or color, an economic existence commensurate with the dignity of man.

surate with his qualifications, is the most urgent point for enactment in the civil-rights program, and it should receive priority over the other points in that program.

The International Brotherhood of Sleeping Car Porters is dedicating its resources to this program. I shall never relinquish my determined efforts in behalf of a national FEPC until an adequate law with enforcement powers is on the statute books of this Nation.

Until all Americans, regardless of race, religion, or color are afforded the opportunity of equal economic existences and development with his fellow citizens, democracy, as practiced on a discriminatory basis, is a bigoted farce.

For the right to work is the right to live.

I had hoped, when I learned yesterday through the daily press that you intended to have before you the representatives of the railroad brotherhoods, that we would be allowed to participate in these hearings at the same time. We, the Brotherhood of Sleeping Car Porters, currently are in two Federal courts: One of the issues is on the train porters, as I pointed out in the statement, and the other issue is on the firemen, where there is a successful attempt to eliminate Negroes as firemen almost completely from the Nation's railroads. Although the train porter issue has not gotten as far as the firemen, where they have been able to eliminate Negroes from the cabins of the Nation's locomotive engines, nevertheless we feel that unless something is done by the Congress, the Federal courts will find it quite inadequate in meeting this problem. It could be argued that it might be because there is lacking definite legislation. We feel that an administrative agency of the type which you are currently considering, that will result from this bill, will be able to bring to a solution of the problem a greater deal of expertness in delving into the various effects of certain practices, an expertness that is not presently available on the statute books to eliminate discrimination against racial groups. This issue, Mr. Chairman, is of very grave concern to us.

As for myself, I was on a leave from the unions during the war years, as an examiner-in-charge for the President's Committee on Fair Employment Practice, and I was stationed in St. Louis, in charge of that office. The question of enforcement powers as against education does not hold, because there are times when you must enforce to make any law effective.

Mr. POWELL. The reason why the Brotherhood of Sleeping Car Porters is interested in this whole railroad-wide problem is because the Brotherhood of Sleeping Car Porters is the only brotherhood that practices no discrimination; is that true?

Mr. BROWN. That is right, Mr. Chairman, as to complete integration in the union I represent.

Mr. POWELL. You admit whites as well as Negroes?

Mr. BROWN. That is right.

Mr. POWELL. Filipinos?

Mr. BROWN. Filipinos, Japanese, Chinese; that is right.

Mr. POWELL. This afternoon at 2 o'clock the brotherhoods will appear, and Mr. Charles Houston, representing the Negro Railroad Executives' Association, is going to be here also. I think we will be very happy to have you come back at 2 o'clock, if you will, and cooperate with Mr. Houston in any cross-examination that might result from the testimony of the brotherhood executives.

Mr. BROWN. I appreciate that.

Mr. POWELL. Any questions, Mr. Perkins?

Mr. PERKINS. No.

Mr. POWELL. Is Rabbi Gordis here, of the Synagogue Council of America?

TESTIMONY OF RABBI ELY E. PILCHIK, REPRESENTING THE SYNAGOGUE COUNCIL OF AMERICA

Dr. PILCHIK. Mr. Chairman, I am representing Rabbi Gordis, if I may. My name is Rabbi Ely E. Pilchik.

Mr. POWELL. You may proceed.

Dr. PILCHIK. We of the Synagogue Council of America deeply appreciate the opportunity which you have afforded us to express our views on this extremely important legislation.

Let me preface our statement by identifying our organization. The Synagogue Council of America consists of delegates elected by the Rabbinical Council of America, the Rabbinical Assembly of America, the Central Conference of American Rabbis, the Union of Orthodox Jewish Congregations, the United Synagogue of America, and the Union of American Hebrew Congregations. We are the united voice of the organized law and rabbinic bodies in the United States—in a very real sense, the religious voice of the American Jewish community.

One more introductory remark. On the 5th of July 1945 we of the Synagogue Council of America, through our president, Rabbi Herbert Goldstein, joined with the Federal Council of Churches of Christ in America, through their president, Bishop B. Bramley Oxnam, and with the National Catholic Welfare Conference, through their president, Archbishop Mooney, in a statement to the Senate of the United States on this very matter. I quote that statement:

The religious forces of the United States have overwhelmingly endorsed the principles of economic justice incorporated in the idea of the Fair Employment Practice Committee. Repentedly, spokesmen of every faith have declared the rights of all men to work at jobs for which they have qualified without discrimination because of race, creed, color, or national origin.

We therefore urge the Senate of the United States to see that funds for the continuation of FEPC are appropriated without further delay. We also urge Congress to enact legislation for the establishment of a permanent FEPC. The moral necessity for such action is the ground of our appeal to you. The failure to act is raising the question everywhere as to the sincerity of the American people in their dedication to the principles of fairness and democracy.

Now on behalf of the Synagogue Council of America I emphatically repeat that statement as the conviction of the religious leadership in America.

We of the faith of Judaism have always believed the prophet Isaiah's profound admonition, "The work of justice shall be peace." If America is to be strong it must be strong internally as well as internationally. Internal strength is totally dependent upon internal justice. Internal justice means equality of opportunity to use one's God-given hands and mind and skills to earn his daily bread for his family and himself. Any violation of this form of internal justice is a severe blow to the morale of America. Discrimination in employment because of race, color, or creed is the real fifth column in our land. It must be uprooted by the Federal Government.

We of the faith of Judaism believe that mankind is one even as God is one—all peoples are potentially equal. We further believe that "the earth is the Lord's and the fullness thereof." The Creator has given us an abundant earth, and He has been especially provident to America. It is His divine intention, we believe, that all shall share the benefits of His abundance if they but labor. To deprive any human being, created in the divine image, of the opportunity to work is to violate the will of God.

Our American forefathers understood this when they fought and bled for equal opportunity of all Americans to pursue happiness. Our sons of all colors and all races and all creeds twice endorsed this principle with their blood on foreign battlefields in the last two World Wars.

The eyes of all men are fixed upon America these days. The billions of little people are asking, "Does America only talk 'life, liberty, and the pursuit of happiness' or does America actually live these principles?"

We of the faith of Judaism urge you of the Eighty-first Congress to answer all the world with a resounding and unmistakable "Yes, we live God-inspired Americanism," by enacting this Federal Fair Employment Practice Act.

Mr. POWELL. Thank you. In your Synagogue Council do you have a department of social action, or do you have at your fingertips the percentage of discrimination as regards various racial groups and religious groups?

Dr. PILCHIK. We have been dependent on the information that has been put out by the National Community Advisory Relations Council.

Mr. POWELL. Represented by Mr. Epstein?

Dr. PILCHIK. Yes. We have been cooperating with them.

Mr. POWELL. Mr. Epstein is going to testify later on in these hearings. What I would like to ask you—and you can reply generally since you are going to have the facts—most people seem to labor under many illusions concerning the FEPC, as they think it is something directed to the South, and secondly, they think it is something to help Negroes only. In New York State, which is the North and where people enjoy probably as high a democratic way of life as anywhere else, the New York State Commission has just announced that 15 percent of the cases of discrimination last year were because of the Jewish faith, the Jewish religion. Now that is in New York State where we have almost, I might say, the minimum of anti-Semitism, and yet 15 percent of the cases there were due to discrimination against people of the Jewish religion.

Dr. PILCHIK. I am a rabbi in New Jersey, Mr. Chairman, where we also have a State FEPC law. I spoke about this with people who are familiar with it previous to coming here and their impression is that with the increase of unemployment, however slight, these discriminatory practices are beginning to come up again as they have in the past, and that the commission handling this matter has more applications for consideration than previously.

Mr. POWELL. Tomorrow morning we are having the chairman and general counsel of the New York State FEPC, and also the Massachusetts State FEPC, and it is the purpose of the chairman to question them along those lines, because it has come to me that cases of

discrimination in New York, New Jersey, Massachusetts, and Connecticut have jumped almost 25 percent in the past 6 months, and if so, that means there is all the more need for some type of Federal legislation.

Mr. Perkins, do you have any question?

Mr. PERKINS. No.

Mr. POWELL. Thank you, Dr. Pilchik.

We will next hear from Dr. W. H. Jernagin.

TESTIMONY OF DR. W. H. JERNAGIN, CONSULTANT, WASHINGTON BUREAU, NATIONAL FRATERNAL COUNCIL OF NEGRO CHURCHES

Dr. JERNAGIN. Honorable Chairman and gentlemen of the committee, I am speaking today as a representative as well as consultant of the Fraternal Council of Negro Churches of America. This organization consists of 11 affiliated denominations with a constituency of more than 6,000,000 members. In speaking in behalf of this representative of the Christian church whose duty is to uphold the Christian ideals, and to work for a realization with belief that the conventions and customs of society can be changed by persistent pressure of Christian influence. We are especially pleased that this bill has come up for hearing at this time and we do respectfully urge members of the House committee as well as Congressmen generally, to look upon this bill favorably in the interest of our Nation's welfare.

The Christian church is concerned specifically with the economic adversities which confront not only minority peoples, but with all peoples. However, it is needless to say minority groups will suffer most in the event of a depression.

A Fair Employment Practice Committee established as a permanent function of the Federal Government is one of the best agents of a just society that we know. The purpose of this committee is to defend the economic rights of minorities among whom are Negroes, Jews, Spanish-Americans, Chinese, Japanese, Filipinos, American Indians, Seventh-Day Adventists, Jehovah's Witnesses, and Catholics. All these groups have suffered and still are suffering in securing jobs in our American industry, and not only in our American industry but in some of our Government agencies. For years there has been that unpleasant and most unsatisfactory condition in the Bureau of Engraving. The highest position a Negro can attain in the Bureau is that of printer's assistant. Over 40 Negro World War II veterans have been denied their rightful opportunity to advance to jobs as skilled printers.

As Christians, we are committed to the belief that no one person more than another, shall be debarred from the opportunity or means to a satisfactory life. This race myth, upon which discrimination against Negroes is organized and maintained, offers a superiority open on equal terms effortless to all white men. Through the very fact of birth white men belong to this superior entity. There is one highest right to which it is assumed God has elected them and that is the right of the superior to rule the inferior.

This mystical concept of racial destiny is employed to conceal the actualities of economic exploitation. For based on this racist propaganda certain persons have been and are still being indoctrinated

with the idea that there are certain jobs and certain job classifications that belong exclusively to white men and certain others that belong to black men; that the black man has no rights that a white man is bound to respect and that the Negro was somehow ordained from the beginning of things to be a drawer of water and a hewer of wood and capable only of being a servant to a white-master class. This discrimination denies the Negro his standing as a human being, shuts him out of the family, and deprives him of the moral dignity with which God clothed him.

The House of Representatives must pass H. R. 4453 making freedom from discrimination in employment based on race, creed, color, national origin, or ancestry a policy of the United States Government.

We cannot rest the case for economic security of minority groups solely at the mercy of private and public enterprise. We cannot expect one individual employer to have the moral integrity to stand out against or defy an unjust economic system when our Government and its lawmakers lack the moral courage to resist it or to establish any laws to abolish this discrimination.

We can conceive of no more disastrous world misfortune than for our divinely favored Nation to forfeit its claim to moral world leadership at this tragic and critical moment in human history—injustice and exploitation do not work. The world and human beings are so made that you cannot organize life securely or permanently on injustice and oppression.

Let us then face our common problem together, both church and Government, each of us having the courage to meet opposition with love and with the determination to build a new America in which you and I may stand and walk as freemen in a free country. As professed Christians, can we not break over the boundaries of race and act in the spirit of common brotherhood?

Mr. Chairman, I want to say that the Fraternal Council of Negro Churches is very much interested in the passage of this bill, and leaders from every denomination belonging to it have expressed their desire that it pass, and we shall work with it until it is passed sometime.

Mr. POWELL. Thank you. There is one part, Dr. Jernagin, in your statement about which I should like to talk with you. You say, "All these groups have suffered and still are suffering in securing jobs in our American industry, and not only in our American industry but in some of our Government agencies."

Dr. JERNAGIN. Yes.

Mr. POWELL. You further say, "For years there has been that unpleasant and most unsatisfactory condition in the Bureau of Engraving."

Dr. JERNAGIN. Yes.

Mr. POWELL. Just elaborate on that a little bit. The Bureau of Engraving is located here in Washington, D. C., is it not?

Dr. JERNAGIN. Yes.

Mr. POWELL. Does it practice discrimination?

Dr. JERNAGIN. Yes; it has practiced it for years.

Mr. POWELL. Does any other Government agency practice discrimination, as the Bureau of Engraving, here in Washington?

Dr. JERNAGIN. Yes, there is some discrimination in most of them.

Mr. POWELL. But not as much as in the Bureau of Engraving?

Dr. JERNAGIN. Not as much. It has not been as pronounced as there.

Mr. POWELL. Whom is the Bureau of Engraving under? Who is in charge of the Bureau of Engraving?

Dr. JERNAGIN. Well, the Government here has simply got the commission to take charge of that part of it.

Mr. POWELL. You do not know who the personnel director is here?

Dr. JERNAGIN. No; not at this time. Mr. Hill used to be.

Mr. POWELL. Is the discrimination in the Bureau of Engraving present at the time of hiring, or does it develop after the person is hired?

Dr. JERNAGIN. Well, both. It is sometimes at the time of hiring. There are certain jobs that a Negro man or woman cannot get, and there are some jobs that if they do get, why, they simply have their limitations.

Mr. POWELL. Would it be possible for the Fraternal Council of Negro Churches to prepare a statement that is specific on this situation?

Dr. JERNAGIN. Yes.

Mr. POWELL. Or if not the Fraternal Council of Negro Churches then some other group in Washington, so that the committee could have the specific instances.

Dr. JERNAGIN. Yes; I would be glad to do that.

Mr. POWELL. If you could present to the committee such specific instances the committee would be happy, I am sure, to invite whoever is responsible for these policies before this committee to testify.

Dr. JERNAGIN. Fine. I will be glad to do that, Mr. Chairman.

Mr. POWELL. I would like to have that as soon as possible.

Dr. JERNAGIN. All right.

Mr. POWELL. We are keeping our afternoons free for just such purposes, and you can get that to me tomorrow morning. I am sure you can get the assistance of other organizations in the community in securing that information, and I can present it to the committee. I am sure they would be interested in knowing whoever the Government Commissioner is. I think the whole thing comes under the Treasury, does it not?

Dr. JERNAGIN. Yes; it is the Treasury Department.

Mr. POWELL. So we could request Mr. Snyder, the Secretary of the Treasury, to come before the committee and testify on why this policy exists, in the face of Mr. Truman's orders to Government agencies not to have such policies.

Dr. JERNAGIN. I will be glad to get that for you.

Mr. POWELL. I would like at this time to introduce into the record a letter from Mr. Tobin, Secretary of Labor, endorsing fully this bill, and saying that the Department of Labor is in favor of its immediate passage. Mr. Tobin will appear toward the end of these hearings, but the chairman feels it important that this statement, from a member of the President's Cabinet, be incorporated in the record now. He wishes to reemphasize that this bill came to the chairman from the administration.

We would also like to include in the record at this time statements from Representative Dingell, of the Fifteenth Congressional District of Michigan, in favor of this bill; from Representative John A. Blat-

nik, of Minnesota; from Representative Walter A. Lynch, of the Twenty-third District of New York, all in favor of this bill; a letter from the Hotel and Restaurant Employees and Bartenders International Union, A. F. of L., in favor of the bill; a letter and a resolution from the National Women's Trade Union League of America; and two letters from two chapters of the American Veterans Committee, in favor of this bill.

(The several matters referred to above are as follows:)

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, April 12, 1948.

HON. JOHN LESINSKI,
*Chairman, Committee on Education and Labor,
House of Representatives, Washington 25, D. C.*

DEAR CONGRESSMAN LESINSKI: This is in further response to your request for my views on H. R. 21, H. R. 64, H. R. 102, H. R. 371, H. R. 384, H. R. 792, H. R. 1848, and H. R. 1578, bills to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry.

While I approve of the objectives of legislation along the lines proposed in these bills, I believe that H. R. 4453 contains the specific provisions which I would like to see in such legislation, and upon which I will comment separately at a later date.

The freedom to earn a living without being discriminated against because of race, color, or religion is as important in our modern economic system as the more familiar civil rights and freedoms guaranteed by the Bill of Rights. That this freedom has not been achieved completely and that members of minority groups have suffered discrimination in seeking and obtaining work and on the job are facts that are well-known. With an awareness of the existence of this discrimination, one of the 15 points of this Department's legislative program to improve the economic status of those who work, is the enactment of a sound fair employment practice act to end job and wage discrimination against minority groups in interstate commerce.

Legislation which places primary reliance upon peaceful persuasion as the most effective method of dealing with discriminatory employment practices represents a desirable approach to the problem of discrimination in employment. For those cases, however, in which informal methods of conference are unavailing, such legislation should provide sanctions which are appropriate to the offense. The mere fact that legal sanctions may be invoked would be of a considerable help in persuading employers and labor organizations voluntarily to discontinue their unfair practices.

During the past several years, a number of States have adopted laws to eliminate discrimination in employment. The States of New York, New Jersey, Massachusetts, and Connecticut, in particular, have such laws. The agencies administering these laws in these States have reported a marked decline in discriminatory practices since their enactment. Discrimination in employment, however, does not respect State lines. It is a national problem which affects our whole economy and requires action by the Federal Government.

For these reasons the objectives of legislation along the lines proposed in these bills have my wholehearted approval.

The Bureau of the Budget advises that it has no objection to the submission of this report since the enactment of legislation such as H. R. 4453 would be in accord with the program of the President.

Yours very truly,

MAURICE J. TOBIN,
Secretary of Labor.

STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, RELATIVE TO H. R. 4453

Mr. Chairman, I shall not unduly impose upon the time of the committee, for to me the question of fair practice in employment is fundamental and therefore not debatable. I stand squarely and uncompromisingly by the side of President Truman in support of the Democratic platform, and I assure the

committee of my desire to sustain the cause to the end of fulfillment of our pledges.

I shall aid every move pointing to the earliest enactment of the FEPC bill.

STATEMENT OF HON. JOHN A. BLATNIK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. Chairman and members of the committee, I take this opportunity to go on record in support of these proposals (H. R. 21 and H. R. 4453) now under consideration, which are designed to make illegal all discrimination in employment, and which would create a national commission against discrimination in employment to enforce a nondiscriminatory policy. I am convinced that the passage of this measure is necessary to the realization of the democratic principle of equality of opportunity and our desired goal of freedom from fear.

The democratic principles of freedom and equality are inherent in the Declaration of Independence and the Constitution, and represent the central theme in our American heritage. We have made great strides toward the realization of these goals in practice during the 175 years of national independence, but our achievements must not blind us to our shortcomings.

We must face the unpleasant fact that great numbers of our people are not allowed to vote today because of the discriminatory poll tax, that rank discrimination—political, economic, and social—is today being practiced against racial, religious, and political minorities, and that mob action, police brutality, and the denial of minimum standards of court justice are common occurrences in many parts of the country.

In my opinion, the most cruel, vicious, and un-American form of discrimination is that practiced in connection with employment. It is a well-known fact that today minority groups throughout America are being subjected to the most flagrant forms of discrimination in employment in both government and private industry. Discriminatory hiring practices fall most heavily upon the Negro people—the FEPC report showed that during the war years four out of five cases of discrimination involved Negroes—but Jews, Catholics, Mexicans, Indians, and Japanese-Americans are also the victims of hiring-hall prejudices.

For the minority worker who is fortunate enough to secure employment in the face of hiring-hall discrimination, there are still the injustices of on-the-job discrimination. He may find that his pay is less than that received by other workers who are doing the same kind of work. For example, statistics show that the average weekly wage for white veterans in the South is from 30 to 70 percent higher than for Negro veterans engaged in the same kind of activity.

In addition, the minority worker is the victim of prejudice when it comes to promotion. A recent case study shows that it takes the Negro employee seven times as long to obtain a promotion as the white worker of the same efficiency.

To make matters worse, it is the minority worker who is laid off first when the labor force is reduced, and reinstated last when production is expanded, which means that minority groups suffer first and longest during periods of unemployment.

Mr. Chairman, it is impossible for me to adequately express my opposition to such forms of discrimination which deprives men and women of the right to work, and the right to life, liberty, and the pursuit of happiness. The existence of such discrimination in America is a national disgrace, and congressional action is necessary for the following reasons:

(1) Discrimination in all its forms, and especially in connection with the right to earn a livelihood, is immoral, unjust, undemocratic, and un-American. It violates every principle to which Americans claim allegiance. It violates the moral and spiritual values, not only of Christianity, but of all the great religions—it is immoral and sinful in that it ignores the God-given dignity that every human possesses. Economic discrimination repudiates the basic meaning of the Declaration of Independence and the United States Constitution which holds that every person enjoys the right to life, liberty, and the pursuit of happiness.

(2) Discrimination is today most embarrassing to the United States which is seeking a position of leadership throughout the world. The United Nations charter provides that members of the UN shall promote freedom to all regardless of race, language, or religion. If we tolerate discrimination we are in a sense repudiating our obligations under the UN.

Discriminatory practices in the United States discredit the United States in the eyes of the peoples of the world, and especially in the eyes of the millions of nonwhite peoples of Asia who today demand the right to sit in the councils of the world on a position of equality. It arouses ill-will against the United States and represents an obstacle to mutual understanding between nations and peoples.

(3) Discrimination in employment is an obstacle to economic progress because it prevents the best use of our human resources in production. This means in turn less production, lower national income, and less purchasing power to maintain full prosperity. Artificial barriers separating minority workers from the average worker creates labor division which can be exploited by management to lower wage standards in industry. Moreover, the final effect of economic discrimination is to drag down the entire economic level of society, perpetuate poverty, and create a host of economic and social problems (slums, disease, crime, delinquent taxes, juvenile delinquency, and poverty); and

(4) Discrimination of all kinds is now on the increase in America, and Congress must take action now to check the revival of such practices before the increasing tensions create grave disorders and social unrest in America. During the last great war minority workers made great gains in industry, Government work, and all other areas of endeavor. Now there is evidence to show that we are reverting to the prewar pattern again, and unless Congress acts soon all the gains made during World War II will be lost.

In conclusion, Mr. Chairman, discrimination in all its forms is a vicious and evil phenomenon, and it has no place in America. It is my hope that this committee will take the first step toward abolishing the evils of economic discrimination by reporting favorably on this legislative proposal to establish a permanent FEPC in America. You may be sure of my unqualified support if you bring this measure to the House floor for debate.

STATEMENT OF HON. WALTER A. LYNCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I appreciate the courtesy of the chairman and the members of the committee in permitting me to file this statement of my views relative to the bill now under consideration, H. R. 4453, commonly known as the Fair Employment Practice Act. I would, of course, have preferred to appear before the committee personally and I regret that the fact that the Ways and Means Committee, of which I am a member, is simultaneously in session in connection with a new social security bill, and thus prevents me from doing so.

I am pleased to point out the apparent unanimity of the New York delegation on the necessity of getting behind this bill and I congratulate my colleague from the Bronx, Hon. Isidore Dollinger, of the Twenty-fourth Congressional District, who has relegated to the background the natural desire to press his own bill, H. R. 1348, and, despite pride of authorship, is vigorous in his stand in favor of the present bill before you.

I feel that this bill which is now under consideration and which has been introduced by my colleague from New York, Mr. Powell, is a forward piece of legislation which is justified in good morals and for economic reasons. I say that it is justified in good morals for the reason that it is my firm belief that we, as a great Christian country, should not discriminate against persons because of their race, color, or creed. It is likewise my firm belief, grounded in me by my parochial school education, that all men are created equal in the sight of God and that all men possess the right—as was indelictly recited in the Constitution of our country—to life, liberty, and the pursuit of happiness. To my mind that means equality of opportunity to live; equality of opportunity for liberty; and equality of opportunity for the pursuit of happiness—all having their correspondent responsibilities. We do not excuse, in this country, people of their responsibilities because of race, color, and creed, and properly so. Neither should we, in my judgment, exclude people from the opportunities of a better life, full liberty, and the real pursuit of happiness because of race, color, or creed. I think all Americans recognize that fact.

The second point I make is for economic reasons we should have this legislation. Our country cannot be a happy and prosperous country if any segment of our population is denied the opportunity to work on the same basis as others of a different color, or a different creed. It is bad policy when people, because of their color and not because of their lack of ability, are paid a lower wage than their neighbor of a different color or of a different religion. It is sound public

policy to raise the standards of living of the American people—and when I say American people I mean the great cosmopolitan populace of our country that has been drawn from every nation of the earth and is composed of members of every religious faith and of all the races. It is poor public policy and worse national economies that the pay of people should be kept lower on account of their color or because of their national origin. No matter what their state of life, they are members of the consuming public and unless we build up a great consuming public, regardless of race, color or creed, we are not going to be able to maintain the high standard of living throughout the whole country.

I trust that this legislation will receive the favorable consideration of this committee and if reported out, I can assure the committee that I shall do everything that I properly do to assist in obtaining its final passage.

**HOTEL AND RESTAURANT EMPLOYEES AND BARTENDERS
INTERNATIONAL UNION,
Washington 11, D. C., May 12, 1949.**

HON. ADAM C. POWELL, JR.,
*Chairman, Subcommittee, Committee on Education and Labor,
House of Representatives, House Office Building,
Washington 25, D. C.*

MY DEAR CONGRESSMAN: I am the international representative for the Hotel and Restaurant Employees and Bartenders International Union. We are affiliated with the American Federation of Labor and with the Railway Labor Executive Association. We have more than 425,000 members in the States and Territories in our 800 local unions.

Please be advised that our international convention which concluded their deliberations in Chicago, Ill., April 30, 1949, debated at great length the subject of discrimination in employment and the convention by unanimous vote went on record in favor of the enactment of legislation to abolish discrimination in employment.

Please be further advised that our International union in our 58 years of existence have always practiced no discrimination and have always admitted into membership all worthy applicants regardless of color, creed, or sex, and have practiced the theory that an injury to one is the concern of all. We number nearly 100,000 Negroes among our members, and in all these years we have lived and worked harmoniously together to improve the working conditions of all our members. All of our members regardless of color, creed, or sex, enjoy full membership, full voting privileges, just as a democratic organization should.

We urge for the enactment of suitable legislation that will abolish at once and for all time, discrimination in employment.

This is our conception of true Americanism.

Very truly yours,

CHAS. E. SANDS, *International Representative.*

**NATIONAL WOMEN'S TRADE UNION LEAGUE OF AMERICA,
Washington 1, D. C., May 13, 1949.**

HON. ADAM C. POWELL, JR.,
*Chairman of Subcommittee, Committee on Education and Labor,
House Office Building, Washington 25, D. C.*

DEAR MR. POWELL: The National Women's Trade Union League has long been on record in favor of fair-employment practices, and now wishes to record its support of H. R. 4453, a bill to prohibit discrimination in employment because of race, color, religion, or national origin.

The wartime Federal Employment Practices Commission demonstrated the effectiveness of this kind of legislation, and showed that it is possible to more nearly equalize job opportunity by law. Also, in the four States that have State laws forbidding discrimination in employment it is certainly true that many members of minorities are now employed in places from which they were formerly excluded, and that conditions are much better than in the States without such laws. We need both State and Federal laws to cover both intrastate and interstate employment.

It is high time that the rights guaranteed in our Constitution were enjoyed by all, regardless of race, color, creed, or national origin, and the National

Women's Trade Union League believes that the enactment of H. R. 4453 will help materially in guaranteeing the fundamental right of equal job opportunities. We hope that this legislation will be reported promptly and we ask that this letter be included in the record of the hearings.

Yours sincerely,

Mrs. MARGARET F. STONE,
Chairman of Legislation,
ELIZABETH CHRISTMAN,
Secretary-Treasurer.

RESOLUTION FOR ESTABLISHMENT OF A PERMANENT FEPC UNANIMOUSLY ADOPTED AT THE THIRTIETH CONVENTION OF THE NATIONAL WOMEN'S TRADE UNION LEAGUE OF AMERICA, MAY 10-22, 1947

Whereas there has been an upsurge of prejudice and intolerance in this country against racial, religious, and national minorities in spite of the fact that the world has witnessed a war in which millions perished in the struggle to rid the world of Hitler and all that he stood for; and

Whereas a continued spread of propaganda of hate and intolerance not only renders vain the sacrifice of our war dead, but serves to defeat efforts that are now being made to unite the peoples of the world in a closer relationship of international cooperation and peace; and

Whereas racial and religious bigotry is a potent weapon in the hands of the enemies of organized labor which is used to divide Negro and white, Jew and Christian, Catholic and Protestant, and native-born against foreign-born, with the aim of destroying the solidarity upon which the labor movement depends for its economic strength; and

Whereas it is inconceivable that a great democracy such as ours should permit the welfare of millions of its citizens to be injured by the evil efforts of a few and that the United States should jeopardize its moral prestige throughout the world through failure to put into practice in our country the principles of tolerance and equality of opportunity which we preach to others; Now, therefore, be it

Resolved, That the National Women's Trade Union League convention goes on record in favor of the immediate enactment of a permanent Federal Fair Employment Practice law providing for an effective means of coping with the problem of discrimination in employment against racial, religious, and other minority groups.

WILSHIRE CHAPTER, AMERICAN VETERANS COMMITTEE,

Los Angeles 36, Calif., May 11, 1949.

HON. ADAM CLAYTON POWELL, Jr.,

Chairman, Subcommittee on FEPC Legislation,
Committee on Education and Labor,

House of Representatives, Washington 26, D. C.

DEAR SIR: The Wilshire Chapter of the American Veterans Committee, at its regular membership meeting on May 10, 1949, has unanimously passed the following resolution:

(1) It favors enactment of Federal FEPC legislation as a major step toward establishing true democracy in our country, emphasizing particularly the need for including enforcement powers in such legislation.

(2) It voices its wholehearted support of H. R. 4453 introduced by you.

(3) It strongly recommends that after being considered favorably by your subcommittee, this bill should be considered by the full Committee on Education and Labor and the full House of Representatives at this session of Congress.

Respectfully yours,

RUDOLPH R. GUTTMANN,
Chairman pro tempore, Wilshire Chapter, AVC.

COLUMBIA UNIVERSITY CHAPTER, AMERICAN VETERANS COMMITTEE,

New York 27, N. Y., May 11, 1949.

HON. ADAM CLAYTON POWELL, Jr.,

Chairman, Subcommittee on FEPC Legislation,
Committee on Education and Labor,

House of Representatives, Washington 25, D. C.

DEAR CONGRESSMAN POWELL: As chairman of this chapter I wish to indicate to you the support of the planning committee and membership of the chapter for

speedy enactment in this session of Congress of H. R. 4453, the bill dealing with fair-employment practices. We also urge that this bill, which will surely aid in strengthening our form of life and government, include strong provisions of enforcement.

Respectfully,

MELVIN MANDELL,
Chairman, Columbia University Chapter.

Mr. POWELL. Our last witness for the morning is Mr. Clovis F. McSoud.

STATEMENT OF CLOVIS FRED MCSOUD, BRISTOW, OKLA.

Mr. MCSOUD. Mr. Chairman and honorable members, I welcome the opportunity to testify before this committee on a bill which I consider of great significance to every American. Its implementation will not only affect the economic standards of most Americans but the very nature of Americanism as a way of life and a civilization.

Once any racial or religious group is at a disadvantage in comparison to the rest of the community, it differs not only from inferior economic opportunity but also what is often worse, the deterioration of all its cultural contacts involved in its economic relationship.

No doubt minority groups are also to be held responsible. They in many instances have adopted a policy of self-segregation and did not seriously contribute to integrate their cultural patterns into the over-all set-up of the American life. But this cannot be taken for granted as the minorities in the very nature of their status acquired a psychological inferiority complex which made them an accepting group. This situation, coupled with a policy of discrimination adopted by many interested groups, nourished this un-American trend by cultivating the prejudices of many against certain racial and religious sections of the population.

Prejudice which begets discrimination is a human disposition which must be treated with patience and understanding. As I understand this bill it is an effort in that direction. It sets forth a national policy. This policy constitutes a framework for more harmonious race relations and lays opportunities to mobilize the vitalities of all Americans for more production and extension of domestic markets. As a policy, I do not think the bill H. R. 4453 will be seriously opposed except by those whose political stakes depend upon the entrenchment of prejudices and bigotry. These men exist in many parts of the United States. They are outspoken and in some of their utterances even those who practice discrimination avoid their association. But I seriously doubt that some phases of the bill will be acceptable to certain sections of the population. I do not want to imply that opposition to the bill means necessarily that inaction on the bill should be the procedure. No, but it is important to understand that in a bill where a human situation is involved it will be beneficial to appreciate the nature of the opposition.

Many of those who oppose FEPC and the civil-rights program are men who have adopted a paternalistic attitude. They point to the gradual progress that the South has achieved. They go further and say that they believe in the progressive ends of the civil-rights program, but are opposed to the means of reaching these ends. They admit that many of their practices, attitudes and policies are not justified but they beg a more tolerant understanding of the peculiar

condition of their problems. The crucial question, therefore, is: Is this type of opposition and the nature of its ramifications worth taken into consideration? Or is this apparent sincerity a facade to deter the attention from the enactment of this bill? From my limited experience in Oklahoma and Texas, and my observations throughout my travel and readings, I maintain that much of the opposition to the civil-rights program is motivated especially in the FEPC by a sincere desire to allow them ample time to prepare the South in particular to be more receptive to such legislation.

Here the legislators are faced with a dilemma. Executing their duty they know that something must be done to enable those who are discriminated against to have equal opportunities. They also know that a law is the intrinsic expression of the will of the people. The American people and the southerners are not opposed to such legislation intrinsically, but their will has not become articulate in demanding such legislation. Per se, the South does not will this legislation now, and in the formative stages of the will which encounter several obstacles of traditions and customs, the execution of this bill in all its phases will be detrimental to the ends we all want—namely, equal opportunity and equality for every American, regardless of his race, creed, or national origin.

But many of those who oppose this bill and the civil rights program must realize that the United States cannot afford apathy and indifference toward certain practices which not only harm those individuals involved, but the position of the United States in world affairs as champion of the human rights and democracy. Those who oppose the bill H. R. 4453 must begin to acquire a sense of responsibility on a national scale rather than confinement to narrow provincialism. Sometimes I wonder if they comprehend that every discrimination against an American is contributing to the sapping of his patriotism and his belief in the American institution of constitutionalism? I also wonder whether they know that a wholesale allowance of discrimination attributes much to the lack of vitality and socio-economic conditions which we see in many parts where discrimination is mostly practiced?

I favor this bill as a policy, a context, which is flexible enough to allow development toward certain goals at which we must arrive. I think the time has arrived when Congress should enact a law which would contribute to a healthier and more vital society.

I am opposed to certain phases of the bill because I know that the machinery created by this act will encroach upon whatever chances the objectives of this bill have in the South and in other areas in the United States. The powers of the Commission are very extensive and quasi-judicial. The salaries of the Commissioners compare to other high officials in the various governmental departments illustrate the extent of the scope of the agency. The bill, if enacted as it is, will create a variety of interpretations and many of the so-called minorities will in their sensitivity and previous frustration, misuse the vagueness of the law. Many would resent the law and until a process of adjustment precedes the implementation of this act, I personally will be inclined to vote to amend the act so as to make the salaries of the Commissioners around \$12,000, and the elimination of sections 7 and 9, in particular, of the bill, so as to make the Commission an Advisory Board with powers to recommend policies to be followed by the judi-

ciary and legislation to the State legislative bodies to enact laws pertaining to the specific conditions of the area.

Every area has its particular problems and every State has many peculiar situations of their own. These cannot be handled by a uniform Federal agency with judicial powers except in an advisory and recommending manner.

But the powers of the Commission implied in this act must apply to all governmental agencies and institutions which are aided or helped by Federal Government. This would apply in Government dealings with private contractors; but as applied to private business and industry the Commission must act in an advisory capacity and as a conciliatory agency.

My disagreement, Mr. Chairman, with particular phases of the bill is due to my desire to see the objectives of this bill attained. A nation, with a democratic tradition and willingness to evolve into relative but continuous success will undoubtedly overcome the several weaknesses and vulnerable spots which exist in many phases of the American human situation. Except for bigots and national chauvinists, such as the Ku Klux Klan and the Gerald L. K. Smiths and others of their kind, the American people in one phase or the other are willing to see their defaults and correct them.

But in minimizing the evils of discrimination and racial prejudice we cannot lend ourselves to sensationalism and dramatization. Many of the political groups in the United States, such as the Communist Party, use the techniques of sensationalism to exploit the sufferings of the people for their own recruiting and selfish purposes.

There is vested interest in the perpetuation of inaction on civil rights. This vested interest should be exposed and the American people should know that in a land of opportunities like ours, we must mold ourselves to the observance of the institutions which made our greatness possible, our freedom unchallenged and our basic and constitutional rights unmolested.

It would be difficult to compromise much of our prejudices, but as we begin to bear the fruits of tolerance and recognition of human rights, discrimination in employment and other fields of human endeavors will be minimized and subsequently eliminated.

I oppose certain phases of this bill because I believe they will retard the fulfillment of its objectives. I am in favor of the policy which the bill installs and I think that such a policy must be enacted soon.

Mr. POWELL. Thank you for your testimony. You are a constituent of Representative Steed, are you not?

Mr. McSoud. Yes, sir. I belong to a minority group of national origin that has been discriminated against in many cases.

Mr. POWELL. You live in Oklahoma?

Mr. McSoud. Bristow, Okla.

Mr. POWELL. I appreciate your testimony. It is very fine. The only thing is you recommend the withdrawal of sections 7 and 9, which are just about the heart of the bill.

Mr. McSoud. I probably did not make myself clear. I would withdraw them in the fields of private business in particular, especially at this stage of the game, but I would implement them in the Government agencies.

Mr. POWELL. What about trade unions?

Mr. McSoud. In the case of trade unions, I think there is a little less discrimination found among trade unions than in other places, and it could be applied to a particular situation. I don't think that trade unions in general are sold on the policy of discrimination. There might be some individual cases. I don't think it is very dangerous there.

Mr. Powell. The experience of the wartime FEPC was that it accomplished quite a lot of good, but the results were much less favorable than if they had had the power of putting a little coercion to work after they exhausted all the stages of conciliation, mediation, and that sort of thing.

Mr. McSoud. Mr. Chairman, I am familiar with the fact that the FEPC has done a lot of good and it proved itself for a temporary period—it proved that it is workable. But you must not forget that the circumstances of war made any serious opposition to it impossible. Now that the war is over and there isn't a national tension and we have a world responsibility, I think we now are a very large target to the people who oppose the United States. They might point to any discrimination in the United States as illustrative and as indicative of the whole human situation here, which you know is not true. Any vulnerable spot is liable to be exploited by the opponents of the United States in the international field. I think a national policy should be established. I would be in favor of that policy, and I just made it clear that there are certain sections which I do not think are practical enough to be enforced in certain areas. I know it is an unfortunate situation, but we could accomplish something that would be a step forward, at least, we could put in a framework so that people will know there is a national policy. If many people in the Southern States would know there is a national policy they would try to adapt themselves. You cannot impose it in such a judicial manner, because I think they would resent it. I think you would have to let their will be more receptive of this legislation.

Mr. Powell. I would like to say in New York State we have an FEPC law which has been in operation for a couple of years, and they have not used the judiciary power, or resorted to the courts, even though they had the power, but the fact they have that power has aided them in their conciliation work.

Mr. McSoud. That would be interpreted, as the southerners would take it, as a threat. There is less likelihood among the New Yorkers, due to their historical background, to have discrimination as compared to the South. I don't think the pattern of the FEPC that has been established in New York can be applied to many States in the South.

Mr. Powell. I would like to conclude this morning's session by including in the record the following communication from Mr. Dwight R. G. Palmer, president of the General Cable Corp., a member of The President's Committee on Equality of Treatment and Opportunity in the Armed Services, and the telegram to which he refers in his letter.

(The letter and telegram referred to are as follows:)

GENERAL CABLE CORP.,
New York, N. Y., May 12, 1949.

HON. ADAM C. POWELL, Jr.,
House Office Building,
Washington, D. C.

MY DEAR CONGRESSMAN: Mr. Joseph S. Jarosz, your research specialist, indicated in a recent letter to me that your committee might be interested in having me testify on or about May 25 re H. R. 447.

Under date of February 10, 1948, a telegram re the Ives-Fulton bill against discrimination in employment was forwarded to the Members of the Senate and the Congress. This telegram reflected the then sentiments of the men whose names were appended thereto, I having had the privilege of having my name included.

As you may know, the President under date of September 13, 1948, in accordance with the provisions of Executive Order 9881 of July 26, 1948, designated me as a member of The President's Committee on Equality of Treatment and Opportunity in the Armed Services. The committee has been functioning since the early part of this year, not having been called together by the chairman until that time.

It is my feeling that I had best forego the opportunity of speaking before your committee while our own committee is in session and engaged in deliberations paralleling to some extent your own efforts.

Were I not a member of that committee, I would be delighted to appear before you.

Best wishes.

DWIGHT R. G. PALMER,
President.

[Copy of telegram]

The undersigned American citizens believe that passage at this session of the Congress of a national act against discrimination in employment is important to the welfare of the country. We note with satisfaction that the Ives-Fulton bill has been favorably reported out by the Senate Committee on Labor and Education, and we ask you, and through you your colleagues, to use your fullest influence to expedite its passage by both Houses of Congress.

The great majority of employers in the United States, together with their fellow Americans, believe in the principle of nondiscrimination in employment.

They know that such discrimination is uneconomical, in that it results in an unsound use of manpower and retards the development of purchasing power. They know it is undemocratic and un-American, being contrary to the principles upon which our Government was founded and upon which it endures. They know, finally, that it weakens the position of the United States in the eyes of the world and in the war of ideas between freedom and totalitarianism.

In our judgment, the Ives-Fulton bill, if enacted into law, will substantially advance the cause of nondiscrimination in employment. It will strengthen the hands of those who believe in its purposes, and it will tend to bring into compliance those few who do not. Our judgment in this respect is based in part upon the successful working of very similar laws in New York, New Jersey, Massachusetts, and other States.

We like the reliance which the bill puts upon education and conciliation. On the other hand, we recognize the necessity of governmental sanctions when conciliation breaks down. We do not believe that passage of this bill will eliminate prejudice from America, but it will be an effective step along the road. For this reason, we have formed ourselves into a committee to advocate its adoption. We hope you will do all in your power to help toward this objective.

Mr. POWELL. The committee stands adjourned now until 2 o'clock this afternoon, when we will hear testimony from the railroad brotherhoods.

(Whereupon, at 11:10 a. m., the committee recessed until 2 p. m. of the same day.)

AFTERNOON SESSION

(The subcommittee met at 2 p. m., pursuant to the taking of the recess.)

Mr. POWELL. The committee will kindly come to order. The first witness, and only witness other than for the railroad brotherhoods, will be Mr. Martin Quigley, president of the Quigley Publishing Co., Rockefeller Center, New York, and cochairman of the National Council for a Permanent FEPC. Mr. Quigley, we welcome you. Before you speak, I would like to compliment your organization on the inestimable help they have given us with these hearings and in scheduling the witnesses.

TESTIMONY OF MARTIN QUIGLEY, PRESIDENT, QUIGLEY PUBLISHING CO., ROCKEFELLER CENTER, NEW YORK, AND COCHAIRMAN OF THE NATIONAL COUNCIL FOR A PERMANENT FEPC

Mr. QUIGLEY. Thank you, sir.

My name is Martin Quigley. I am president of the Quigley Publishing Co., Rockefeller Center, New York, and cochairman of the National Council for a Permanent FEPC.

Mr. Chairman and members of the committee, I am grateful for this opportunity to appear before you in support of H. R. 4453, the Federal fair employment practice bill.

I am cochairman of the National Council for a Permanent FEPC, which is the principal organization working in behalf of this proposed legislation. More than 50 national religious, civic, fraternal, labor, and racial organizations are members of the council. It is interracial and interfaith in character. Among the organizations represented on its board of directors are the National Catholic Welfare Conference, Congress of Industrial Organizations, American Federation of Labor, American Civil Liberties Union, American Jewish Committee, United Council of Church Women, National Association for the Advancement of Colored People, Cooperative League of America, American Jewish Congress, and the Independent Benevolent Protective Order of Elks of the World.

In addition to the national organizations, our council is composed of local units throughout the country which represent groups of members of the organizations I have named. The national and local groups represented by the council number a membership of approximately 60,000,000 persons. Representatives of various of these organizations will appear before your committee.

The bill before this committee does not represent new or radical legislation. It is a moderate and reasonable measure. It is calculated to do nothing more than achieve and maintain that measure of economic justice which is the right of every citizen of this Nation under the principles to which the Nation is pledged. It proposes to deal affirmatively and constructively with a distressful condition which has not yielded—and is not likely to yield—to the slow and uncertain processes of education, adaptation, and adjustment.

The first FEPC was instituted by Executive order in June 1941. It was a wartime measure. Bills to establish a permanent Fair Employment Practice Commission were introduced in 1944 in both Houses of the Seventy-eighth Congress, and again in the Seventy-ninth Congress. Hearings were held by both Senate and House committees, reports of which are available. The bill appeared again in the Eightieth Congress where, in the Senate, it had the sponsorship of four Democrats and four Republicans. These bills have been reported favorably by Senate and House committees. The Congress has not yet had an opportunity to vote upon them.

FEPC legislation was endorsed and requested in the President's message to Congress February 2, 1948. It was pledged in the platforms of both major political parties at their latest national conventions. It was an important issue in the Presidential campaign of last fall, and the election of Mr. Truman may only properly be interpreted as meaning that great numbers of Americans support the civil-rights program to which he is pledged.

We urge the passage of this legislation because discrimination in employment is an assault against the God-given right to earn a decent livelihood. We urge it because discrimination in employment is increasing, as will be shown by statistics to be presented by other witnesses; because discrimination is bad for the Nation's business; because discrimination is an embarrassment in the conduct of our foreign relations; because it is unjust and immoral, and contrary to the American creed of equality of economic opportunity; because it violates the pledges made to members of the armed forces, whose sacrifices contributed importantly to the preservation of the freedom this Nation now enjoys.

This bill, H. R. 4453, is essentially the same as the legislation introduced and voted upon favorably by House and Senate committees in previous Congresses. It establishes a commission which is authorized to investigate charges, attempt to eliminate discrimination by conference, conciliation and persuasion, issue complaints, hold hearings, subpoena witnesses, make findings of fact, issue cease-and-desist orders, order reinstatement or hiring, with or without back pay, and finally, if necessary, to seek enforcement of its orders in court.

The provisions of this bill are embodied in laws now operating in several States, including New York, New Jersey, Massachusetts, and Connecticut. They have been found to be workable and effective in correcting the conditions sought to be remedied. Indeed, numerous groups, including employers and employer-associations who initially opposed this legislation, are now vigorous proponents of it. They state that it has not hampered the operation of their companies in any way; that it has produced better labor relations and better customer relations.

The National Council for a Permanent FEPC urges favorable action upon this bill by the members of this subcommittee and by the full House Labor and Education Committee. We believe the bill should be brought to the floor of the House for a vote and passed. We believe that, with our practice of the American way of life now under the closest scrutiny by those elsewhere in the world who are being urged to choose between ours and other systems, we must adopt affirmative measures to vindicate our declared devotion to human rights and social justice.

The simplest, most basic requirement for the maintenance of human rights and social justice is the right to equality of opportunity in earning a livelihood, without regard to race, color, religion, or national origin.

MR. POWELL. I thank you, Mr. Quigley, for your statement. I have just two or three questions that I would like to ask. The first is of a personal nature, and you do not have to answer it if you do not want to. I notice in your statement you emphasize the moral aspect of this bill. What faith or denomination do you personally have?

MR. QUIGLEY. I am a Roman Catholic.

MR. POWELL. Therefore, as a churchman, as a member of the laity, you think the problem involved here is a moral one?

MR. QUIGLEY. I believe the problem here involved is essentially a moral one, and the moral approach to the problem is the approach that interests me most.

MR. POWELL. There is another question I would like to ask you. In your position as national cochairman, I would like to ask you as to

your position on this. It has been charged off and on through the years by opponents of this legislation that this is a communistic attempt to put over a law. I have before me a statement which comes from one of my colleagues, Representative deGraffenried, of Alabama, in which he makes the same charge as was made by Representative Bennett, of Florida, and also Representative Rankin, of Mississippi. Will you just state, on any basis of your knowledge of FEPC, as the national cochairman of the FEPC Council, and your knowledge of the way it began, whether you believe FEPC is communistic or not.

Mr. QUIGLEY. I profess to have some knowledge of the subject of communism and some familiarity with the ways and methods of Communists. I am familiar, generally speaking, with the origin and development of the movement for righting the problem that this bill deals with, and I have seen no evidence—and I have been sufficiently close to the matter to see any evidence that was in sight—I have seen no evidence of any Communist implications whatsoever in this undertaking.

Mr. POWELL. Thank you. One last question is this: There have been other semiproponents of this measure who have said that the South would accept it more readily if there was no enforcement power. I have my own views on that, but I would like to have your views on the feasibility of having the enforcement power that we do have in this legislation.

Mr. QUIGLEY. It is my belief—and I attempted to make reference to it in my statement—that the slow process of education enlightenment, adjustment, adaptation, all of those processes are not sufficiently quick, or as certain of definite effect, or the remedy now needed to deal with the problem as it presently exists.

Mr. POWELL. Thank you ever so much, Mr. Quigley.

Mr. QUIGLEY. Thank you.

Mr. POWELL. We have before us now the representatives of the four brotherhoods. Before the first one comes forward, I would like to say that this is in no way and cannot in any way be construed as an attack on the trade-union movement, to ask the brotherhoods to come here today.

It so happens when President Truman, on May 25, 1946, on a Saturday afternoon, called a joint session of the Senate and House to ask for immediate power to stop the threatened railroad strike, that there were 14 men out of the entire House of Representatives who voted with the brotherhoods. They were Bishop of Illinois, Buffet of Nebraska, Coffee of Washington, Crosser of Ohio, De Lacy of Washington, Green of Pennsylvania, Kee of West Virginia, Marcantonio of New York, Neely of West Virginia, O'Brien of Michigan, Savage of Washington, Smith of Ohio, Celler of New York, and the chairman of this committee.

My stand on the union question is well known, and is unchangeable, and I want the men who are going to testify today to know that before they come forward.

In the second place I would like to say that the various presidents have sent vice presidents to represent them, and it will be a waste of time if these witnesses are not able to speak with complete authority concerning the brotherhoods which they represent. So when the witness comes forward, if he cannot speak with complete authority concerning his brotherhood, the chairman will have to ask him to step

down, and we will have to arrange a suitable date when someone who can speak with authority can be present.

Our first witness is Mr. Harry See of the Brotherhood of Railroad Trainmen.

TESTIMONY OF HARRY SEE, NATIONAL LEGISLATIVE REPRESENTATIVE, BROTHERHOOD OF RAILROAD TRAINMEN

Mr. POWELL. Mr. See, you represent Mr. Whitney?

Mr. SEE. That is right.

Mr. POWELL. The president of the Brotherhood of Railroad Trainmen?

Mr. SEE. That is right.

Mr. POWELL. And you can speak with authority on every question?

Mr. SEE. As far as I know, I can; yes.

Mr. POWELL. What you say can reflect the policy of the brotherhood and its official view toward whatever questions and answers take place here?

Mr. SEE. That is right.

Mr. POWELL. Mr. See, there have been charges made before this committee the other day by Mr. Charles Houston, specifically, representing the Negro railroad men and today by Mr. Theodore Brown, representing the Brotherhood of Sleeping Car Porters, that the Brotherhood of Railroad Trainmen excludes members of all races except the Caucasian race.

Mr. SEE. That is right.

Mr. POWELL. Is that true?

Mr. SEE. That is true.

Mr. POWELL. In consideration, therefore, of this legislation, specifically the President's bill which is before us, H. R. 4453, the Railroad Trainmen, upon the basis of its policy, would be against the Fair Employment Practice Act?

Mr. SEE. No, sir; that is not right.

Mr. POWELL. All right, will you kindly enlarge on that?

Mr. SEE. The brotherhood has taken no position either way with reference to this bill, or similar bills which I understand are in Congress.

Mr. POWELL. No position either way?

Mr. SEE. No position either way.

Mr. POWELL. I have before me an official document from the Department of Labor concerning reports on national legislation as they affect the various brotherhoods, and I want to ask you a few questions about these documents, on the basis of the history of the brotherhood.

The Brotherhood of Railroad Trainmen was organized in 1883 as was the Brotherhood of Railroad Brakemen of the Western Hemisphere and so continued until 1886, is that right?

Mr. SEE. I don't know about the Western Hemisphere. I know it was the Brotherhood of Railroad Brakemen.

Mr. POWELL. Then in 1886 it changed its name to the Brotherhood of Railroad Trainmen.

Mr. SEE. That is right. I am not sure about the year, but it was about that time.

Mr. POWELL. In 1884 was the first annual convention. At that time you adopted a constitutional provision which restricted membership to whites only.

Mr. SEE. I don't know what year it was adopted. I am a member of the brotherhood, I guess, 35 years, and it was a part of the brotherhood law when I was first a member.

Mr. POWELL. That convention was in 1894?

Mr. SEE. Yes.

Mr. POWELL. Do you personally favor such a policy now?

Mr. SEE. Yes.

Mr. POWELL. Why?

Mr. SEE. I think a change would cause considerable disruption within our own ranks.

Mr. POWELL. Do you think it is a good policy to have organizations in our democracy that are not democratic?

Mr. SEE. Well, I think it would be a matter of personal opinion, as to whether we are democratic or not.

Mr. POWELL. I am using as my basis, first, the statement of the Secretary of State, Dean Acheson, who says that this law is necessary so that the world will know that we are practicing democracy, and, second, the statement of the Secretary of Labor, Mr. Tobin, who very emphatically came out for this law in a communication that I had inserted in the record this morning, and who will so testify later in the hearing (at least he has indicated he will make a statement Thursday), and then the President himself, Mr. Truman, has publicly proclaimed it, as well as all Presidential candidates. In fact, this bill that we have before us came from the White House through the Attorney General, Mr. Tom Clark. Do you think your view of democracy is a little bit better than the view of say, the Secretary of State, the Secretary of Labor, or the Attorney General?

Mr. SEE. No, Mr. Powell; I did not say that. I said it was my view.

Mr. POWELL. That is what I said.

Mr. SEE. Yes.

Mr. POWELL. You feel your view is better than theirs or you would not hold it, is that right?

Mr. SEE. I like it better; yes.

Mr. POWELL. You like it so much better that in World War I the brotherhood went so far as to say that if Negroes were allowed to work wherever they had the talent or opportunity you would strike?

Mr. SEE. I did not know that.

Mr. POWELL. You did not know that?

Mr. SEE. No, sir.

Mr. POWELL. May I bring that to your attention? Let us take World War I first. This comes not alone from your organization, but part of it is from the Locomotive Firemen's magazine, August 15, 1917, pages 11 and 12. They point out in this statement:

The following important circular on this question was issued August 9, 1917, by Acting President Shea to all general and local chairman and recording secretaries of subordinate lodges.

During the early part of June 1917, information reached the international president that the Baltimore & Ohio Railroad management contemplated employing Negro firemen. It was stated the company was importing Negroes from the South under contract for this purpose.

President Carter, before going away on his leave of absence, prepared an article on this question, which appeared in the June 15 issue of the magazine, and which explains the situation in detail and very clearly shows that the purpose of this movement. We trust every member of this brotherhood has read this article; if not, they should do so in order to learn for themselves the purpose of the railroads in their desire to employ Negroes as firemen on the roads where they are not now employed.

While in New York during the month of July, a meeting with the Commission of Eight, I received information to the effect that the Baltimore & Ohio Railroad had called some of our local chairmen to ascertain the attitude of this brotherhood in the event Negroes were employed to fire engines. Upon receiving this information, I wired General Chairman A. B. Miller of the Baltimore & Ohio Railroad the following:

Have just been advised that the Baltimore & Ohio roundhouse foreman at Cleveland approached local chairman Lodge 10 relative to his attitude in event Negro firemen were placed on locomotives as firemen. Suggest that you immediately file vigorous protests with your general manager against the employment of Negro firemen and you shall have the support of this organization to prevent the advent of Negro firemen on your road. Insist upon an early reply and advise me. Grand Chief Engineer Stone is taking the matter up with his chairman."

On and on it goes, until we find a resolution which states:

Resolved: That it will be the policy of the B. of L. E. that Negroes will not be permitted to fire locomotives on any railroad that does not now employ them as such, and will request that on such roads as do now employ them, that they be confined to the districts as defined for them at the present time, and that the percentage of Negro firemen on divisions where they are employed jointly with white firemen be not increased.

That came from the advisory board. Then it goes on:

To the foregoing, I—

the president—

replied, in part, as follows:

"This will acknowledge receipt of your letter of the 2d instant with the enclosed copy of letter addressed jointly to Brothers Sheppard and Dodge and myself which embodied resolutions adopted by your advisory board on July 2d defining the position of the Brotherhood of Locomotive Engineers regarding the employment of Negro firemen on railroads where white firemen are now exclusively employed, also on roads where it is now the practice to employ a certain percentage of Negro firemen jointly with white firemen."

On and on this article goes and states that they will vigorously protest, that they cannot justify Negroes being employed where white men seek employment, and point out that the entire organization is in back of this protest that he is making, and he sent the same communication to the New Haven & Hartford Railroad.

That situation came out of the fact that in World War I we needed more railroad workers than in normal times because of the war, but the president of the brotherhood, despite the fact that the Nation needed these workers came out vigorously and said he and the men backing up the resolution would not accept any Negroes in any capacity working with them. That is in World War I.

In World War II, the same thing took place. On December 11, 1942, a general letter went out from the headquarters to all of the men of the brotherhood about this same question and stated that again they would not work if Negro men were placed in their positions on the railroads. In fact, the wartime FEPC went into this problem and started it, and through the methods of conciliation and mediation, and so forth, without, however, power to enforce it, tried to get the brotherhoods to accept the proposition of Negro workers during World War II. The brotherhoods ignored the request of the wartime FEPC.

Now these are the facts before us: In time of war, when we needed workers in every phase of our American industrial life that, the brotherhoods would not bend one bit and said they were not going to accept Negro workers in time of war, even though our democracy and homes were at stake. Do you claim that is a better form of democracy?

Mr. SEE. In what organizations? You mentioned there the Brotherhood of Railroad Trainmen and the Brotherhood of Locomotive Firemen and Enginemen. Which one do you mean?

Mr. POWELL. The Brotherhood of Locomotive Firemen and Enginemen. As regards the Brotherhood of Railroad Trainmen I have here a situation which, although it is not a situation in wartime, yet it is a situation which, from my personal feeling, not as a Negro, but as a member of this democracy, is just as serious, if not more so. I would like to read this letter which came from the Brotherhood of Railroad Trainmen. This is a letter addressed to Col. George W. Goethals on May 15, 1914. This is on your stationery, signed by the National Legislative Representative Val Fitzpatrick, who was also the vice president of the Brotherhood of Railroad Trainmen. He was vice president then in 1914?

Mr. SEE. He was vice president of the brotherhood, but I am not sure about that year.

Mr. POWELL. That is official information from the Department of Labor.

What I am going to read now is direct from your organization.

DEAR SIR: We are in receipt of complaints coming from members of the force on the canal works that Negroes are being employed by the Isthmian Canal Commission as engineers, firemen, conductors, and brakemen, and that this occurs even where there are white men of experience and ability available and when the wages to be paid are regulated by law. It is said, "They have about 20 niggers on the switch engines, and he"—

yourself—

"had promised to put white men on as soon as he had them to put on; now he has discharged quite a number of Americans and retained these aliens contrary to the law. * * *

Again—

"They discharged American citizens to make room, and good jobs, for Jamaica niggers * * *. The night yardmaster at Colón, good-paying job, is an English Jamaican nigger; several engineers are Jamaican niggers; while American citizens are getting fired daily. The assistant yardmaster here is a Jamaica nigger. He has several white men, American citizens, who are his subordinates, and they forgot more about railroading than he ever knew. * * *

While we realize that such matters may be exaggerated under the circumstances existing on the Canal work, if the facts are substantially as related in the quotations, we desire to protest against the continuance of such a policy, influential as it must be upon the future course of the Government and upon the attitude of the railroad managements in the States. It is the policy of the train-service organizations which we have the honor to represent to oppose the employment of Negroes as engineers, firemen, conductors, and brakemen on the railroads in this country; and we are convinced that, if the 300,000 members of these organizations were made aware that on the Government work under your control there existed conditions such as are reported to us, there would break such a storm of disapproval as would result in no good to the officials of the Government who are finally responsible for such actions.

Assuring you of our interest in every successful completion and management of the magnificent work in your charge and hoping for your considerate attention to this communication, we are

Yours respectfully,

H. E. Willis, National Legislative Representative of the Brotherhood of Locomotive Engineers; W. M. Clark, Vice President and National Legislative Representative, ORC; P. J. McNamara, Vice President and National Legislative Representative, Brotherhood of Locomotive Firemen and Enginemen; and Val Fitzpatrick, Vice President and National Legislative Representative of the Brotherhood of Railroad Trainmen.

Now, do you consider that letter in keeping with the principles of our democracy?

Mr. SEE. I had never seen that letter before, Mr. Powell.

Mr. POWELL. I can show you this one. It is from the Department of Labor, and I can get you a photostatic copy, if you desire.

Mr. SEE. I do not desire it. I am interested in the letter that was quoted in the letter that they wrote to the colonel. As I heard you read it, it indicated those people about whom they were complaining were aliens. If they wanted to prohibit aliens from working in the Panama Canal, that was not a bad idea.

Mr. POWELL. The whole thing in your letter is woven around the question of Negroes, not aliens.

He has several white men—
not aliens—

He has several white men, American citizens, who are his subordinates, and they forgot more about railroading than he ever knew.

Do you favor the use of such words as I read here. Do you think it is democratic?

Mr. SEE. All I remember the first time you read the letter is that he was talking about Negro aliens working on the Panama Canal.

Mr. POWELL. No.

Mr. SEE. You talk about them being aliens.

Mr. POWELL. No; I did not. Let us stick to the point. He mentioned here language which I do not consider very democratic and I do not want to read it again.

Mr. SEE. He made reference to someone from Jamaica, for instance, who would be a British subject.

Mr. POWELL. Do you want to read it?

Mr. SEE. No.

Mr. POWELL. If you can't remember it you can have it before you there and read it.

Mr. SEE. No; I do not care to read it.

Mr. POWELL. Did you not hear me read what he said?

Mr. SEE. Yes.

Mr. POWELL. Did you hear the words I used? There is a copy of the letter, you can take it back and read it.

Mr. SEE. Here is one thing. He says, "several engineers are Jamaica niggers."

Mr. POWELL. That is right.

Mr. SEE. That would mean they are British subjects, would it not?

Mr. POWELL. That would mean you are using a word which is not in consonance with the principles of democracy.

Mr. SEE. I did not use that language.

Mr. POWELL. Your organization did. It is an official document since it was signed by the vice president.

Mr. SEE. Will you permit me to finish it?

Mr. POWELL. When I get ready, yes. This document is signed by your vice president.

Mr. SEE. I cannot agree to that. The letter itself is, but they quote a letter from someone else. It is not their language. That is because they are quoting from someone else.

Mr. POWELL. They are reporting from the report of their workmen down there.

Mr. SEE. From some individual, but it is not their language. They are just quoting someone else's letter.

Mr. POWELL. How about where they do not quote, where it says here in your constitution, "For whites only." Those are your words, are they not?

Mr. SEE. That is right; that is in our law.

Mr. POWELL. Whether you see it that way or not, it indicates the type of thinking you have; that is all.

Mr. SEE. How is that?

Mr. POWELL. It is the type of thinking. It is not the type of thinking enjoyed by the highest thinking whites in this Nation, beginning with our President and going on down to others who appeared before us. I would like to ask you some more questions about your own organization which I want to get into the record. Do you think it was justifiable on the part of your organization, granting that you believe that there should not be any Negroes allowed to work with you now, do you think it is in keeping with democratic principles?

Mr. SEE. I did not say that.

Mr. POWELL. You did not?

Mr. SEE. No.

Mr. POWELL. What did you say?

Mr. SEE. You asked me about changing the law.

Mr. POWELL. Yes.

Mr. SEE. I said I would not be in favor of it.

Mr. POWELL. You would be in favor then of Negroes working with you?

Mr. SEE. I haven't any objection. We have many of them.

Mr. POWELL. But you would not favor them being part of the brotherhood?

Mr. SEE. That is right.

Mr. POWELL. You are a trained union man, are you not?

Mr. SEE. Yes.

Mr. POWELL. Do you think, as a trained union man, it is a good thing to go to a place where men are working and purely because of the fact they are Negroes, you see to it that they are discharged from their jobs, that they lose their jobs where they have been working for some time?

Mr. SEE. I do not believe in that. I don't know that our organization has ever done it.

Mr. POWELL. I am going to bring the record to you of this right through the years.

In 1898 Grand Master Morrissey, in the General Grievance Committee, Brotherhood of Railroad Trainmen, on the entire Missouri-Pacific system, met with the management of the system in an effort to effect the removal of the Negro brakemen on the entire system. That is from the Proceedings, Fourth Biennial Convention, 1899, page 19. That is when it began. It is from the proceedings of your organization that I am reading now.

Then in 1899 the General Agreement Committee of the Brotherhood of Railroad Trainmen, together with A. B. Youngson, of the Brotherhood of Locomotive Engineers, F. P. Sargent of the Brotherhood of Locomotive Firemen and Enginemen, E. C. Clark of the Order of Railway Conductors, and W. Lee Powell of the Order of

Railroad Telegraphers, and the committees of the five organizations, negotiated an agreement with the Gulf, Colorado & Santa Fe Railway on displacing colored porters on passenger trains and white brakemen being placed in these positions. You did not know about that?

Mr. SEE. No. That is more than 50 years ago.

Mr. POWELL. I just want to bring the whole history before you so you will be intelligent concerning your brotherhood. That is from the report of the Grand Master Morrissey, fifth biennial convention, at Milwaukee, 1901, at page 10.

Now we come on down to when you became connected with the brotherhood, 35 years ago. You began about 1914.

In 1905 the Brotherhood of Railroad Trainmen committee negotiated an agreement with the Norfolk & Western Railroad Co. that no more Negroes would be hired as brakemen for road service.

On July 2, 1910, the Brotherhood of Railroad Trainmen and Order of Railway Conductors, Southern Association of General committees, negotiated the Washington agreement with the Southern Railway Co., Atlantic Coast Line Railroad Co., Seaboard Air Line Railroad Co., and other southern roads providing that Negroes were not to be employed as baggage men, flagmen, or foremen; where Negroes held such positions at the time of making the contract, any vacancies in such positions should be filled by whites. That is from the report of vice president Val Fitzpatrick, the tenth biennial convention, Harrisburg, 1911, pages 445 to 449.

Then we come on down through 1911. The Brotherhood of Railroad Trainmen Committee on February 2, 1911, negotiated an agreement with the Florida East Coast Railroad Co. that no more Negroes would be employed in train or yard service, pursuant to contracts effective November 1, 1910. Then in 1911 an agreement was negotiated with the Cincinnati, New Orleans & Texas Pacific and Alabama Great Southern Railway, Central Georgia, Mobile & Ohio and Southern Railway of Mississippi, Georgia, Southern & Florida Railroad, New Orleans & Northeastern, Alabama & Vicksburg Railway, and Vicksburg, Shreveport & Pacific Railway, Southern Railway and Virginia & Southwestern Railway, Atlantic Coast Line, that when Negroes who perform work as flagmen, or Negro foremen become separated from the service their places would be filled by white men. That comes from the report of your president, the Eleventh Biennial Convention, pages 50 to 54.

Then in 1914—this is when you came with the brotherhood—the general committee of the brotherhood in 1914 was able to displace 14 Negro brakemen with white brakemen on the Gulf, Colorado & Santa Fe Railway. That is from the Circular of Instructions, August 1914, Railroad Trainmen's Magazine, September 1914, page 31. That is when you began.

Mr. SEE. No; I commenced the following year.

Mr. POWELL. All right. We will come to you then. Now bringing it up to date to where you are, in 1915 the assistant to the president, T. R. Dodge, Brotherhood of Railroad Trainmen, in conjunction with Vice President Turner, Order of Railway Conductors, met in 1915 with the joint general committees for the Cleveland, Cincinnati, Chicago & St. Louis Railway, and negotiated with management with the result that five colored trainmen on the Chicago and St. Louis divisions were removed and white trainmen put in their positions. That

is from the Circular of Instructions, November 1913, Railroad Trainmen's Magazine, December 1915, page 1140. You were then with the brotherhood.

Mr. SEE. That is right, I was working as a brakeman out of West Oakland, on the Southern Pacific.

Mr. POWELL. That is in the 35-year period?

Mr. SEE. Yes.

Mr. POWELL. As a trade-union man do you think it is a good thing for a class of people to be barred from the brotherhood? Do you think it is good trade-union philosophy?

Mr. SEE. Yes.

Mr. POWELL. It is?

Mr. SEE. That is the way we believe it. That is what our law says.

Mr. POWELL. And to displace people because of color you believe is good trade-union philosophy?

Mr. SEE. Regardless of what I feel about it personally, that is still brotherhood law.

Mr. POWELL. I am asking you personally.

Mr. SEE. Yes; if they could not belong to the brotherhood. Negroes are not the only ones that cannot belong to the brotherhood.

Mr. POWELL. Yes; we are going to get to that.

Mr. SEE. There are lots of people who could not belong to the brotherhood.

Mr. POWELL. Yes; but for some reason other than the color of the skin.

Mr. SEE. Yes.

Mr. POWELL. So you say that Negroes cannot belong to the brotherhood.

Mr. SEE. That is what the law says.

Mr. POWELL. You believe that is good trade-union philosophy. My opinion from now on, if that is the opinion of the brotherhood—and I am still a trade-union man—is that you are not a trade union. That is my opinion from now on concerning the brotherhood, if that is its philosophy.

Now, we come to 1917. An editorial in Railroad Trainmen's Magazine, October 1917, pages 733 to 734, commended the Brotherhood of Locomotive Engineers and Brotherhood of Locomotive Firemen and Enginemen for resisting the efforts of the Baltimore & Ohio to hire Negro firemen during the war emergency.

The Brotherhood of Railroad Trainmen Committee, together with the committees of the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen and Order of Railway Conductors, obtained the assignment of three white brakemen to a dodger crew on the Texas and Pacific Railway formerly manned by Negro brakemen. That is in September, 1917, Railroad Trainmen's Magazine, October, 1917, page 727.

The General Grievance Committee, Brotherhood of Railroad Trainmen, for Seaboard Air Line Railway, file 6642, negotiated an agreement with the carrier in 1917 restricting the employment of Negro trainmen when normal conditions prevailed.

Now, in 1919 the second triennial convention, Brotherhood of Railroad Trainmen, at Columbus, Ohio, in 1919, adopted a resolution calling for all general committees to incorporate into the schedule on

each line of railroad a rule that no more nonpromotable men will be employed; and that the practice of using train porters to perform the duties of baggage-man, flagman, or brakeman be discontinued. That is from the proceedings on pages 220 to 230.

Again in 1919 the second triennial convention adopted a resolution demanding that the director general of railroads restore the right of the Brotherhood of Railroad Trainmen "to make percentage agreements guaranteeing the Brotherhood of Railroad Trainmen the majority of men to employ, to the end that contracts made by this organization may be protected by it." You are acquainted with that, Mr. See?

Mr. SEE. Yes. I think that was not directed to a Negro at all, that was directed at rival organizations.

Mr. POWELL. Will you explain that? Will you expand on that?

Mr. SEE. That was directed at rival organizations. For many years, up until the time of the Railroad Labor Act, we had in yards what we called a percentage agreement, that a certain percentage of men in the yard must be members of the brotherhood.

Mr. POWELL. Do you think that is a good rule when automatically you ruled out persons of other than the Caucasian race?

Mr. SEE. I don't know, Congressman. I was never very much in favor of that rule.

Mr. POWELL. Now, we get a little more up to date. In 1920 the General Grievance Committee, Brotherhood of Railroad Trainmen, for Norfolk & Portsmouth Belt Line Railroad, on April 2 and April 3, 1920, negotiated an agreement reducing the employment of Negro trainmen from 33 percent to 30 percent, which protected the positions then held by white trainmen. That is from the report of President Lee for 1920, page 106.

In 1928 the Brotherhood of Railroad Trainmen did not give the Negro firemen or trainmen on the St. Louise-San Francisco Railway or its predecessor corporations property any notice or opportunity to be heard at any stage of the negotiations which resulted in the contract of March 14, 1928. That is trade-union philosophy in power again in the convention. They did not give the Negro firemen or trainmen any notice or opportunity to be heard in the negotiations which resulted in the contract prohibiting future hiring of Negroes in train, engine, or yard service. That is in 1928. I have before me that agreement of March 14, 1928. It was signed by—let us see, who would be representing you then? Is that Gannon, the vice president of the ORC?

Mr. SEE. No; he was not the vice president of the brotherhood.

Mr. POWELL. Now this is interesting. In 1931, the Sixth Triennial Convention, Brotherhood of Railroad Trainmen, at Houston, Tex., adopted a resolution empowering the president of the grand lodge to assign a grand lodge officer to assist the general committees in an effort to have the Negro train porters removed. Evidently you were out to remove Negro train porters also.

Mr. SEE. I was at that convention. As I remember, the charge was made that the railroad companies were requiring the train porters to do the work of brakemen, not porter's work but that work that properly belonged to the brakeman, and this resolution only had to do with taking such action as is necessary to keep the railroad companies from hiring porters to do work which was not their own work.

Mr. POWELL. The white porters were required to do the same?

Mr. SEE. Absolutely; just the same as if they had required the train baggagemen to do the work.

Mr. POWELL. From 1940 to date the Brotherhood of Railroad Trainmen has been conducting a drive on the southwestern railroads, that is the Missouri-Pacific, M. K. T.; Atchison, Topeka and Santa Fe; St. Louis-San Francisco Bay, to take away from Negroes classified as train porters all the head-end braking work on passenger trains which they have been doing with the Brotherhood of Railroad Trainmen's knowledge for more than 40 years and have this head-end braking work taken over by white brakemen, most of whom are Brotherhood of Railroad Trainmen members.

Mr. SEE. That is right. On those railroads the train porter who does not pass a book of rules examination, who is not a brakeman in any sense of the word, maybe he does not even carry a switch key, had been required to do the brakeman's work. In other words, the porter had been required not only to do his own work but to do the work that properly should be done by someone else.

Mr. POWELL. These men have been doing this work for 40 years.

Mr. SEE. That is what the statement says. I don't think that is true.

Mr. POWELL. If they had not been doing it, who was doing it?

Mr. SEE. They had brakemen doing it at one time. I talked to some of the men and they said they did it.

Mr. POWELL. According to the information I have, these men have been doing it on some of the railroads for 40 years.

Mr. SEE. Even if they had been doing it they should not be doing it.

Mr. POWELL. If they can have an opportunity to get into the brotherhood I would agree with you on that proposition, but you are threatening the livelihood of these people, as you have been doing from the record I read, displacing persons from their bread and butter ever since the beginning of your organization in 1884 when you adopted your constitution.

Mr. SEE. I cannot agree with you.

Mr. POWELL. I read the record, my friend, and you haven't disproven it. The record comes from your own proceedings, that you have displaced brakemen, displaced men who had been working because they were Negroes and put in white men all through the years.

Mr. SEE. That might have happened a great many years ago, but it is not happening now. There are many Negro brakemen, Negro yardmen working under brotherhood contracts. They receive exactly the same rate of pay, they work under exactly the same conditions. If they have got grievances about their working conditions, or the manner of payment, or the amount of money they are paid, our local committee takes care of it for them, and it does not cost them a dime.

Mr. POWELL. When a Negro has a grievance and takes it before the National Mediation Board he finds on the Mediation Board the very men who will not accept him as a brotherhood union, is that right?

Mr. SEE. That is true.

Mr. POWELL. Then how can he bring a grievance which arises out of the fact that he is a Negro to a man who will not let him into their organization because he is a Negro?

Mr. SEE. Mr. Congressman, if you will just let me proceed to explain why we are very anxious to do this, I think you will understand.

Mr. POWELL. Go right ahead.

Mr. SEE. If a Negro brakeman or a yardman has a grievance that affects the working conditions not only of himself but of the other men on the property, don't you think, for our own protection, we are going to prosecute the grievance as soon as we can and make every effort to settle it? If it isn't settled then a precedent is established and we lose. If they refuse to grant a Negro seniority in Bluefields, W. Va., and they get by with it then they may refuse to grant one of our own men seniority, then it establishes a precedent.

Mr. POWELL. What about if a Negro worker is displaced, is out just because he is a Negro and then takes his grievance up, what is he going to meet with then?

Mr. SEE. I don't know of any cases now that would cover a case like that. That might have happened in the past. I was told yesterday about one of our men, I think on the Southern Railroad, that not long ago a Negro brakeman was discharged because he refused to work on Sunday. He was a minister, he insisted on his right to preach his sermon on Sunday, and he was discharged for refusing to work on Sunday. We carried his case along with the cases of other men into a strike docket of that railroad, and got him reinstated, and paid them for all the time they took out of the service.

Mr. POWELL. That is fine. The fact remains that the brotherhood (1) will not allow a Negro to belong to it, (2) has negotiated contract with the railroads of America guaranteeing certain percentages of whites to colored, (3) through the years it has displaced Negro workers and put in white workers despite their seniority or efficiency, and (4), it still remains a trade-union which believes that its principles of discrimination are a better form of democracy than the principles believed in and set by the President of the United States, on down through the Cabinet.

Mr. SEE. That is not quite correct in its entirety. They do not have any percentage agreements any more.

Mr. POWELL. You had them in the beginning, when you were able to discharge Negroes wholesale, despite their seniority and efficiency, and you cannot deny that.

Mr. SEE. Those conditions do not exist any more.

Mr. POWELL. Of course, because we do not have the jobs now. You got them by kicking out the Negro people.

Mr. SEE. That has been 15 or more years ago.

Mr. POWELL. I don't care. For the benefit of my colleagues I pass this record of trade-union philosophy and achievement through the years to you.

I have no more questions of you. If you desire to say anything else, you may.

Mr. SEE. I just want to make this statement with reference to the letter you read addressed to Colonel Goethals. The language which you read in the letter, which was objectionable to you, was a quotation from a letter apparently that had been written to these four brotherhood officers. It was not their language, they quoted someone else, you may agree.

Mr. POWELL. Yes; I will agree to that.

Mr. SEE. The statement is made that American citizens were discharged to make room for Jamaicans, and if they were Jamaicans, they were aliens and they should not have been working on the Panama Canal. Another statement is made that the locomotive engineers are Jamaicans, while American citizens are being fired daily. There were some more British subjects on the Panama Canal. A yardmaster was also a Jamaican, a British subject. I submit the man who wrote the letter, while I do not like his language, and maybe I do not like his attitude about a lot of things, maybe he had an idea that Americans should be employed on the Panama Canal. Now on the Panama Canal today about the only white people who are employed are engineers and conductors, all the rest are natives, and they are working with considerably less money than the white men are in this country.

Mr. POWELL. I am sorry to interrupt you but it so happens that I have invited to testify before this committee on Thursday workers from the Panama Canal who are going to present the shocking, undemocratic labor practices of our Government in Panama, and we will ask them to go into the whole question at that time.

Mr. SEE. We do not have anybody down there.

Mr. POWELL. I know. I would like to ask you one last question. Suppose the FEPC, this bill of the President, becomes the law of the land; what will the brotherhood do?

Mr. SEE. I don't know.

Mr. POWELL. Will it go out of business?

Mr. SEE. No.

Mr. POWELL. Then it will accept Negroes, won't it?

Mr. SEE. I suppose it would be a matter for the brotherhood convention to determine. I don't know. You understand we do not have any closed-shop agreements. Nothing compels a man to belong to the brotherhood in order to work on the railroad.

Mr. POWELL. Except that the agreement with companies on a percentage basis.

Mr. SEE. No; we have not.

Mr. POWELL. You have got to the place now where you are so strong that the workers have to come through you?

Mr. SEE. Of course, they have a right to vote for the organizations that will represent them.

Mr. POWELL. Only whites can vote for it?

Mr. SEE. No.

Mr. POWELL. Excuse me for interrupting you. What railroad was it that used to be 41 percent Negro and today it is 5 percent? **Mr. Houston**, can you answer that, or **Mr. Brown**?

Mr. BROWN. I think the percentage you are referring to is for the Firemen.

Mr. POWELL. What railroad was that on?

Mr. BROWN. That is the entire industry.

Mr. POWELL. The entire industry used to be 41 percent and now it is 5 percent. There is no way to win an election when you only have 5 percent.

Mr. SEE. I have been on the railroads 35 years and I have my doubts about the 41 percent.

Mr. POWELL. When they come on the witness stand we will have the facts.

Mr. SEE. They can probably testify better than I can on that. May I correct one thing?

Mr. POWELL. Yes.

Mr. SEE. I am sure you did not mean to say what you did, because when we vote for representation in an election on any railroad, the United States Board of Mediation compiles a list of those employees who are eligible to vote, and just this morning I inquired of them if they made any distinction and they said they did not, that they had a list of brakemen or yardmen, they took everybody on the seniority list regardless of whether he was colored or white.

Mr. POWELL. What happened yesterday that made you change the practice that through the years you displaced Negroes with whites?

Mr. SEE. I have been informed where we had a representation election with rival organizations, in many instances, the colored yardmen and colored brakemen voted with the brotherhood.

Mr. POWELL. That is true in many instances. The yard and trainmen are, a vast majority, white and there is no way for the Negro to join the brotherhood.

Are there any questions, Mr. Perkins?

Mr. PERKINS. No.

Mr. POWELL. Mr. Burke.

Mr. BURKE. Has your organization taken any stand either for or against the bill now before the subcommittee?

Mr. SEE. No position either way.

Mr. POWELL. All right, thank you.

I would like Mr. McBride, the vice president of the Brotherhood of Locomotive Enginemen and Firemen, to come forward.

TESTIMONY OF JONAS A. McBRIDE, VICE PRESIDENT OF BROTHERHOOD OF LOCOMOTIVE ENGINEMEN AND FIREMEN

Mr. POWELL. Mr. McBride, kindly give the clerk your full name.

Mr. McBRIDE. Jonas A. McBride, vice president and national legislative representative of the Brotherhood of Locomotive Firemen and Enginemen, 10 Independence Avenue, Washington, D. C.

Mr. POWELL. Mr. McBride, have you any statement to make?

Mr. McBRIDE. Congressman, my organization is not for or against this bill; therefore, I have no prepared statement. I might say to you, though, in line with your opening remarks, since I have been in Washington the railroad organizations have endorsed you and endorsed Congressman Powell because of your splendid labor record.

Mr. POWELL. Thank you. I was going to bring that to the committee, because I have letters here before me from the four presidents of the brotherhoods endorsing me for reelection each year because of my splendid labor record. I have letters when I ran for the Eightieth Congress, and again when I ran this time for the Eighty-first Congress. That shows that this chairman sits here with a 100-percent trade-union mind.

But I want to tell you, Mr. McBride, what is being developed here today is causing the chairman very grave misgivings concerning the brotherhoods in connection with our trade-union movement.

I would like to go through the history which we had compiled of the Brotherhood of Locomotive Firemen and Enginemen. How many years have you been with the brotherhood?

Mr. McBride. I have been a member of the brotherhood 46 years the 13th day of next November.

Mr. Powell. Forty-six years. Do you think, Mr. McBride, that it is in keeping with the things that we are fighting for in the trade-union and working-class movement to have an organization such as the brotherhood that has in its constitution "whites only"?

Mr. McBride. Congressman, if you will permit me, my brotherhood, the same as most of these railroad brotherhoods, was originally organized as a fraternal benefit society. There was a locomotive fireman killed at Fort Jarvis, leaving a wife and three helpless children, and the firemen got together and made up a collection, and they organized the brotherhood. For many years all they did was to try to help the widows and orphans and the dependent ones in case of an injury of that kind, and it was only in later years that they became identified as labor organizations.

Mr. Powell. You would not deny the fact that the brotherhood is a labor organization now?

Mr. McBride. Yes; it is a labor organization now.

Mr. Powell. How many members has your brotherhood?

Mr. McBride. I would say 105,000, approximately, at this time.

Mr. Powell. Only white?

Mr. McBride. The law states, if you will permit me to read it, that he shall be white born, of good moral character, sober and industrious, not less than 16 years of age, and be able to read and write the English language and understand our Constitution. Mexicans or those of Spanish-American extraction are not eligible.

Now this was adopted at our last convention in 1947:

Should the provisions of this paragraph, or any part thereof, be in violation of or in conflict with the laws of the United States, the Dominion of Canada, or any State or Province as contained in the statutes or court decisions, then in that event the provision of such law shall supersede the provision of this paragraph to the extent required to bring about conformance of such law and to remove the violation or conflict.

This was effective July 28, 1947.

Mr. Powell. Do you know if that was adopted by the other brotherhoods?

Mr. McBride. No; I don't know anything about their constitutions and bylaws.

Mr. Powell. I shall have to ask that question of the succeeding witnesses, then. Then, in other words, if the FEPC became the law, according to your own resolution passed 2 years ago, you would change the constitution?

Mr. McBride. That is the action of our last convention, Congressman.

Mr. Powell. Because the record before me of the Locomotive Firemen and Enginemen is just about as bad, from the standpoint of democracy and from the standpoint of trade-unionism, as the one I read concerning the Railroad Trainmen.

The Brotherhood of Locomotive Firemen and Enginemen was organized in 1873, and its name was the Brotherhood of Locomotive Firemen. Is that correct?

Mr. McBride. That is right; yes, sir.

Mr. Powell. The joint committee delegated by the Brotherhood of Trainmen, Brotherhood of Railway Conductors, Switchmen's Mu-

tual Aid Association, and Brotherhood of Locomotive Firemen, composing the United Order of Railway Employees, in 1890 requested the officers of the Houston & Texas Central Railway that all Negroes employed in train, yard, and locomotive departments of the Houston & Texas Central Railway System be removed and white men employed in their stead. That is the first step in your effort to remove Negroes and replace them with white men.

Mr. McBRIDE. That is my first knowledge of that.

Mr. POWELL. I would like to give you the correct history on this brotherhood.

Mr. McBRIDE. I would like to say during my career I handled assignments all through the Eastern and Western States, and I have had no contact or knowledge of the other situation that you are speaking about.

Mr. POWELL. This comes from the Locomotive Firemen's magazine, December 1890, volume 14, at pages 1094 to 1096.

Now in 1892 Grand Master Sargent of the Brotherhood of Locomotive Firemen, in August, replied to the Brotherhood of Locomotive Engineers' committee seeking cooperation with the Brotherhood of Locomotive Firemen that the Brotherhood of Locomotive Firemen wanted the Brotherhood of Locomotive Engineers—

to remove from locomotives that class of men who cannot become members of our organization * * *. I refer to the colored men in the South.

That is from the proceedings of your first biennial session at St. Paul, Minn., May 9, 1894, at pages 50 to 60.

Grand Master Sargent above reported to the third biennial convention of the Brotherhood of Locomotive Firemen, Cincinnati, 1892, in words to this effect:

I say to the engineers, when you will come to the firemen and show some interest in their welfare, when you will root out the colored firemen who are debarred from membership in our organization and demand that brotherhood men be placed in their positions, when your organizations will give positive evidence that you are the friend and ally of the firemen, it will be time to consider a proposition looking forward to less promotion of firemen and the employment of engineers.

That came in Cincinnati in 1892. Up to that time the provision "white born" was not in your constitution?

Mr. McBRIDE. This is the first time I have heard this information.

Mr. POWELL. The provision "white" was added to your constitution in 1894 when you met in Toronto, Canada. In other words, the Locomotive Firemen and Enginemen came into being only when your Grand Master Sargent told the firemen that they had to root out Negroes first before the enginemen would accept them. That is not good trade-unionism, or good democracy; is it?

Mr. McBRIDE. I would say, Congressman, going back years and years and bringing up matters of this kind, outside of filling up the record, it does not tell the true picture today, so far as these organizations are concerned.

Mr. POWELL. I am going to come to that.

Mr. McBRIDE. My organization, I think, has just about as clear a record, from the standpoint of doing what is legitimate and fair, as is possible to be done. I do not think it is fair to go back all these years, because I think all of us have improved in the last few years.

Mr. POWELL. The fact that you said you would accept the FEPC 2 years ago—you went on record for it—does that mean that you would abide by this bill if it was passed?

Mr. McBRIDE. This bill that you are considering today—we are not for it or against it. Until I got notice of the meeting, I did not read the bill.

Mr. POWELL. I will give you one to take back. You just read from your constitution the fact that 2 years ago you agreed if any national legislation was passed your organization would agree to it.

Mr. McBRIDE. Yes; because we are law-abiding American citizens.

Mr. POWELL. That is an indication of the fact that you are amenable to an FEPC.

Mr. McBRIDE. We do not care what you call it.

Mr. POWELL. Let us call it the President Truman bill. President Truman is a friend of the brotherhood presidents. Let us call it his bill, his policy to abolish discrimination in employment, because this is his bill. Believe me, I did not see this bill, not a word of it, until John McCormack handed it to me, and it came to him from Attorney General Clark. It came from Mr. Truman through General Clark to John McCormack to me. I want you to know that this is Mr. Truman's bill.

You say that past history is not apropos of the conditions now. I say it is because it shows how this policy has been developing. But we will cut across some of the history and we will include it in the record without objection, and we will come up to date.

In 1917, let us begin there. Mr. Burke, were you here when I pointed out that the brotherhood, during World War I and World War II, when the Nation was conducting a war and needed workers and some of the railroads, because of the shortage, wanted to use Negroes, that the brotherhood protested and passed resolutions against that?

Mr. BURKE. No.

Mr. POWELL. I see. I will bring that out later, because you are acquainted with those resolutions.

Mr. McBRIDE. No; I am not.

Mr. POWELL. They were passed by your organizations. Would you kindly get them for him, Mr. Houston, the resolutions in World War I and World War II? While you are looking for them, may I say in 1917 President W. S. Carter of the Brotherhood of Locomotive Firemen and Enginemen instructed all general committees and local committees to protest the introduction of Negro firemen on any railroad where they were not then employed. That is coming up to date, and I am going to come on up to the present day.

In 1917 again President Shea of the Brotherhood of Locomotive Firemen and Enginemen ordered the Brotherhood of Locomotive Firemen and Enginemen general chairmen on the Baltimore & Ohio Railroad property to protest the hiring of Negro firemen on that property and issued a circular to all Brotherhood of Locomotive Firemen and Enginemen lodges stating they would have the support of the Brotherhood of Locomotive Firemen and Enginemen in striking against any attempt to employ Negroes in train and engine service, even under war conditions.

Mr. BURKE. That is World War I!

Mr. POWELL. That is World War I. Do you recall that incident?

Mr. McBRIDE. No; I do not, Congressman.

Mr. POWELL. Have you a letter regarding that employment? It states--

You will have the support of this organization to prevent the advent of this class of labor on your road, and to accomplish this end our members will be supported in refusing to work with Negroes, or to work when Negroes are employed as their fireman.

That is World War I, and in World War II we have that. That was published in your magazine August 15, 1917, volume 63, pages 11 and 12.

Now on March 28, 1940, the Brotherhood of Locomotive Firemen and Enginemen served notice on 21 southeastern railroads to change collective-bargaining agreements in the following manner:

(1) Only promotable men will be employed for service as locomotive firemen or for service as helpers on other than steam power.

(2) When new runs or jobs are established in any service, only promotable firemen or helpers will be assigned to them.

(3) When permanent agencies occur on established runs or jobs in any service, only promotable firemen or helpers will be assigned to them.

(4) It is understood that promotable firemen or helpers, on other than steam power, are those who are in line for promotion under the present rules and practices to the position of locomotive engineer.

Doesn't that language that I quoted there, as late as 1940, mean since you have membership for whites only; doesn't that mean that no Negroes may be employed on the run?

Mr. McBRIDE. May I answer it in my own way?

Mr. POWELL. You may.

Mr. McBRIDE. I became a locomotive fireman in 1902. At that time locomotive firemen were not compelled to accept promotion, and the railroads found they were getting men on the lists as firemen that they could not promote, because they could not study, and they could not make any advances themselves. In 1904 they adopted what they called the progressive examinations.

Mr. POWELL. I wanted to go through the history. You asked me to permit you to go through it.

Mr. McBRIDE. I don't want you to confuse it with the idea that that is an all-out attack on Negroes.

Mr. POWELL. We are not considering discrimination against Negroes only; we are considering discrimination against all American citizens.

Mr. McBRIDE. The railroad had to have qualified men to promote. It is better, from the railroad's point of view, to have men who have had several years' experience as firemen. After 1904, every locomotive fireman was compelled to take his three examinations on the first, second, and third series. When the time came to take an examination for promotion to engineer, many firemen were dropped from the service because of the fact that the railroad did not want men they could not promote--that they could not depend upon to operate their trains. Some railroads allowed them to drop back at the bottom of the list and work all the way up, but in doing that there was a hazard that the business would fall off and they would be furloughed. There was not any view of discriminating against anybody, but it was to give the railroad companies the best-qualified men that they could get to operate their locomotives.

Mr. POWELL. Mr. McBride, is it or is it not true that no Negro can get promoted on the southeastern railroad system as a locomotive fireman?

Mr. McBRIDE. That is not true if the present agreement that we have submitted is enacted—there has been an injunction against it, and I don't know why—

Mr. POWELL. I am not talking about the present agreement. I am talking right now without this present agreement.

Mr. McBRIDE. As of right now, the brotherhood has agreed—

Mr. POWELL. As of what date?

Mr. McBRIDE. As of January 26, I think it is, 1948—that the railroads will incorporate this rule:

1. All firemen and helpers now in service or hereafter employed shall be in line for promotion to the position of locomotive engineer. Each fireman and helper shall be called in seniority order and required to take examinations for promotion. Those who pass such examinations and meet all other requirements for promotion will be promoted to engineer. Those who decline to take the examinations or fail to qualify for promotion shall be dismissed from the service.

2. All firemen and helpers who heretofore failed to pass, declined to take, or were not called for promotional examinations shall, subject to the provisions of section 1 above, be called for promotion and required to pass the necessary examinations and otherwise qualify for promotion within a reasonable length of time (to be agreed upon) from the effective date of this agreement.

3. Eliminate all provisions of existing agreements which limit in any manner the exercise of seniority of firemen and helpers, hostlers and hostler helpers.

4. All provisions of existing agreements not in conflict with or modified by the foregoing shall remain unchanged.

Now the letter further states:

In conformity with the foregoing action, there are also enclosed herewith copies of proposition or notice to be served upon the railroads as of January 26, 1948.

Mr. POWELL. Now, Mr. McBride, without the chairman having to tell you why, will you tell the committee why you developed this new ruling in 1947?

Mr. McBRIDE. I suppose they felt it is a fair proposition.

Mr. POWELL. The truth of it is, Mr. McBride, you developed this ruling in 1947 because in 1944 the United States Supreme Court throw out your Jim Crow agreement with the Southeastern Carriers Association. That is why you did it. May I read it to you:

In 1941 the brotherhood, through the services of the National Mediation Board, obtained the compromise Southeastern Carriers' Conference Agreement February 18, 1941, seriously curtailing the rights of Negro locomotive firemen.

In 1944 the United States Supreme Court, in the case of *Steele v. The Louisville & Nashville Railroad Company et al.* (323 U. S. 192, Dec. 18, 1944), decided the Brotherhood of Locomotive Firemen and Enginemen had violated the obligation on bargaining representatives of fair representation of minority workers' interests in negotiating the Southeastern Carriers' Conference Agreement, February 18, 1941; and that the agreement was discriminatory. Nevertheless the brotherhood persisted in enforcing the agreement, until damages were awarded against it in the case of *Tunstall v. Brotherhood of Locomotive Firemen and Enginemen* (U. S. District Court, Eastern Division Virginia), and the decision affirmed by the United States Court of Appeals, Fourth Circuit (163 Fed. 2d 289), and certiorari denied.

It was on that basis that you decided to change your rules, am I right?

Mr. McBRIDE. I presume, Congressman, that the parties who negotiated that agreement thought it was fair, and later on when they were told by the higher court that it was not fair, then they decided to

change it. Now, as I say, we are good Americans, we are willing to abide by the law of the land.

Mr. POWELL. That is what we hope to do by the FEPC, to make good Americans out of people who sometimes do not seem to understand. The Supreme Court had to hand down the decision, that is, Tunstall had to go to the Supreme Court, and even then you did not obey the Supreme Court until Tunstall went to get damages against you, and when you had to pay the bill, or had to pay him money, you made this agreement.

Mr. McBRIDE. I don't think this agreement should be criticized.

Mr. POWELL. I am very happy that the Supreme Court of the United States and the district court have made good Americans out of the brotherhood.

Mr. McBRIDE. With all due respect to you, I think long before any Supreme Court made its ruling the one-hundred-thousand-odd members of the brotherhood were good Americans.

Mr. POWELL. I suppose they were good Americans for whites only. I am talking about America of the people, by the people, and for the people. The America that I know about is America for all the people, not just the whites only. I am very happy the Supreme Court and the court of appeals, by giving damages to Mr. Tunstall, got this through in 1947, and that is what we hope to do with the FEPC, and when the FEPC comes through we hope we will have a brotherhood which will not be a travesty on the name "Brotherhood," because to say "Brotherhood" and mean brotherhood of whites only is not democratic, is not democracy or Christianity.

Do you have any questions, Mr. Burke?

Mr. BURKE. This is new to me. As I understand it, Mr. McBride read the provision in the constitution where the objectionable provision, as far as the purposes of this bill are concerned, will become null and void upon the enactment of the bill, or the enforcement of the bill. I believe that is a healthy step forward. Regardless of whatever historical significance there may have been in the past, certainly it shows the willingness, and I hope that employers will show the same willingness to live up to the laws if this FEPC bill can be passed.

You stated at the beginning that your organization had taken no position either for or against this bill?

Mr. McBRIDE. That is right.

Mr. BURKE. That means it has not gone on record in opposition to the bill.

Mr. McBRIDE. That is right.

Mr. BURKE. Even though you anticipated, or your organization anticipated officially that such a bill would be enacted at some time or another, because you made provision for it in the constitution.

Mr. McBRIDE. Congressman, we believe that every fireman, whether he is white or Negro, must be given the same opportunity for promotion, must be required to pass the same tests in order to qualify for continued services as a fireman, or for promotion as an engineer, and must be subject to the same penalties for refusal to take or failure to pass these tests. Discrimination then would be wholly absent. But if you are going to say to these white firemen, "You must take these examinations for promotion to engineer and when you fall down you

must give up your job on the railroad," you must do the same with the other man who takes the examinations and falls down.

Mr. POWELL. Representative Burke, as you know, the question of promotion is very significant in union circles and, when Mr. McBride finishes, I am going to ask Mr. Charles Houston to come back and talk about the angle of promotion, so you will get the real facts on this thing, which Mr. McBride has not introduced as yet, so that you will know what promotion means on the brotherhood. It does not mean quite the same thing as it means to the CIO in Toledo, Ohio.

We will give you an opportunity, Mr. McBride, when Mr. Houston finishes. Just before you leave I would like to put in the record the fact that in December 1942, in World War II, when the Atlantic Coast Line Railroad was going to hire Negroes, that the brotherhood, on December 9, through General Chairman Lee, resolved—

That the entire matter be submitted to the membership and other firemen, hostlers, and hostler helpers on the Atlantic Coast Line Railroad and the Charleston & Western Carolina Railway Co., in the form of a strike ballot, so that they may decide for themselves whether they will leave the service and participate in a strike in accordance with the laws of the Brotherhood of Locomotive Firemen and Enginemen if a satisfactory settlement cannot otherwise be reached; and be it further

Resolved, That the general chairman with the assistance of the grand lodge officer assigned to assist, he hereby authorized and directed to prepare and forward to the local chairman and assistant local chairmen the strike ballot with necessary instructions for taking the vote, and such instructions to include fixing a time and date for counting the vote and announcing the results; and be it further

Resolved, That in event a majority vote in favor of withdrawing from the service, the general chairman and grand lodge officer shall have authority, with the approval of the International president, to fix a date and time for the strike to become effective and to issue necessary instructions for the conduct of the strike.

That is World War II, when the employer in the South was ready to hire engine-men and firemen.

Mr. McBRIDE. Congressman, may I ask you, did you get a chance to go to the ETO to see what was done to the American railroadmen of this country?

Mr. POWELL. That is right, they did a fine job. It would have been a much finer job if Negroes had an opportunity, just as it was in all industry.

Mr. McBRIDE. I don't think there can be any reflection on any of these brotherhoods for the fine outstanding services rendered during the war.

Mr. POWELL. I am pointing out here that you were ready to strike during World War II rather than let the railroads hire Negro engine-men and firemen.

Mr. McBRIDE. The fact is our railroad men did go to the battle front and they kept the operations going in this country all the time. Sometimes there are just little things that are not brought out on the surface. I was called to go to Jersey City one night to represent my president. I got there and there was a colored man and he was demanding that the railroad hire some Negro firemen, but there were some 20 white firemen furloughed at the time and under our contract they had to be returned to service before new firemen could be employed. You have not to take care of their rights.

Mr. POWELL. This was during World War II.

Mr. McBRIDE. That was during World War II.

Mr. POWELL. On the Atlantic Coast Line Railroad there was a time when there were not enough white firemen or white enginemen, and that is when they wanted to employ Negroes.

Mr. BURKE. I would like to make one comment on that last statement you made. I quite agree that there is a case where men are laid off, or "furloughed" I believe the term is, and they have seniority rights, that certainly no one, no matter what their race, color, and nationality or anything else is, has a right to come in and take over their jobs. They do have a right to be called back. That is the principle of seniority.

Mr. POWELL. And you also agree when Negro firemen or enginemen work on a railroad that have seniority, that they should not be put out for white men in the same jobs?

Mr. BURKE. Absolutely, the same rule would apply.

Mr. McBRIDE. If they are furloughed they should be called back in their turn.

Mr. POWELL. Mr. Houston.

TESTIMONY OF CHARLES HOUSTON—Resumed

Mr. POWELL. We have Mr. Houston's full title, so we do not need to have that again for our record.

Mr. HOUSTON. Mr. Chairman and members of the committee:

Railroading is a very technical industry and a person who does not know railroading is almost at a loss in coming up against railroad men, because they can make what is actual discrimination appear to be plausible.

I should like to take just a second to straighten out a matter on this Brotherhood of Railroad Trainmen.

In 1910, under the Washington agreement, the Brotherhood of Railroad Trainmen, which now says they never tried to take a job away from anybody, put in a provision that no larger percentage of Negro trainmen or yardmen should be employed on any division than was employed on January 1, 1910. Also it put in a provision that Negroes are not to be employed as baggagemen, flagmen, or yard conductors.

Now I did not read the letter of May 1914 to General Goethals the same way that the gentleman read it, about the exclusion of aliens. The important part of that letter, so far as this hearing is concerned, is contained in the second paragraph. It says:

It is the policy of the train service organizations, which we have the honor to represent, to oppose the appointment of Negroes as engineers, firemen, conductors, and brakemen, on the railroads in this country.

They were talking then about the United States. They were making the statement that that is the official policy of all four organizations, to oppose the employment of Negroes as trainmen in train and yard service.

Now, I would like to talk about the situation in World War I. In World War I you had the threatened strike on the B. & O., and you already have in the record the fact that the Brotherhood of Railroad Trainmen and the Brotherhood of Railroad Firemen and Enginemen were ready to strike rather than let Negroes be employed, in a time of war emergency.

I haven't argued against the hiring of Negroes by a unionized body if the Negroes were working for a substandard wage.

In World War I the United States Railroad Administration equalized wages by General Order No. 27, so that that economic argument completely passed out of the picture. Instead of recognizing the fact that Negroes were entitled to work in a democracy, the organizations began at once, because these jobs then became attractive, to try to get these jobs, forcing the United States Railroad Administration to issue supplement No. 20 to the effect that equalization of wages did not mean that any Negroes or any other persons were to be displaced.

Now the argument has been made here by the Brotherhood of Railroad Trainmen that, on its face, would be entirely plausible, that a brakeman would not want another man from another craft to do a brakeman's work. That is not the story; the story is that the carriers had them on the head end of the passenger trains—Negroes had done absolutely all the work on the head end of the passenger trains.

In addition to that they handled mail, they handled baggage, and did the porter work as well. Their duties were so far identical with brakemen that on many railroads they would run brakemen and their train porters interchangeably, but they never gave the Negro the pay, the standard pay which the brakeman was receiving.

So when in World War I General Order No. 27 was issued, and it said right here "effective June 1, 1918," colored men employed as firemen, trainmen, and switchmen shall be paid the same rate of wages as are paid white men in the same capacities.

A question arose as to whether a train porter was a trainman or whether he was just like a sleeping car porter. To lay that at rest the United States Railroad Administration, on December 2, 1918, issued supplement No. 12 to General Order No. 27, and there for the only time in railroad history established certain functional tests, and if an employee passed the functional test he was a brakeman.

To carry out the intent of article VI of General Order No. 27 and retroactive to June 1, 1918, it is ordered:

1. Employees in a passenger train crew, except conductor, collector, and baggage master, qualified and regularly required to perform the following duties, will be designated as passenger brakemen or flagmen and paid accordingly:

(a) Inspect cars and test signal and brake apparatus for the safety of train movement.

(b) Use hand and lamp signals for the protection and movement of trains.

(c) Open and close switches.

(d) Couple and uncouple cars and engines and the hose and chain attachments thereof.

(e) Compare watches when required by rule.

2. Where white brakemen are not employed, the compensation and overtime rule for colored brakemen shall be the same, for both passenger and freight service, as for the same positions on the minimum continuous road.

3. This order shall not curtail the duties of employees heretofore classed as "train porters."

As long as the railroads were under Government administration these Negroes at the head end of the passenger trains were qualified as passenger brakemen, but when the railroads went back to private management—and please don't ever understand that this is an attack upon the unions as such, I am not attacking the unions, I am simply attacking discrimination in the unions. There has been discriminations on the part of the carriers, and I would be the last person to say that back in this history there was never any instance in which the

unions had the choice. The Negroes were reclassified as train porters. The important thing, however, is there was no change of duties, and they were peculiar to duties right down to date with—this is the important thing—with the knowledge and consent of the Brotherhood of Railroad Trainmen.

But what happened? When you began to get the competition of airplanes, when you began to get the competition of buses, when you began to get the competition of streamlined trains, what happened then was that the railroads now can pull 200 percent of the tonnage with Diesel engines that they can pull with one steam engine. In other words, every freight train now does the work of two previous freight trains. That means one freight crew out of work. So the Brotherhood of Railroad Trainmen, looking around for more spots, pushed the Negro further off the line and took advantage of the nomenclature of train employees, and since 1940 made a concerted drive to eliminate all the Negroes from all the trains and have them replaced by white men, having exactly the same duties.

There are five, six, or seven cases on this. There is *Hunter v. Atchison, Topeka & Santa Fe Railroad*, 171 F. 2d., 604; there is *Howard v. St. Louis-San Francisco Railroad*, which we handled; and there is *Missouri ex rel., St. Louis Railroad Co. v. Russell*, which is going to the Supreme Court of the United States. So we must not permit either the confusion or the distortion of the facts to influence us, that color is the only reason that these men who are doing all the braking work on the head end of trains are not brakemen. Another thing to prove that, when you put on the Diesel engine, when you put on the air-conditioned cars, when you put on the vestibule cars, when you put on these high-speed trains, there is practically no portering work to do. The Negro train porter is held for every bit of discipline, takes every examination and is subjected to the same rules and regulations as the white brakeman, and it is no excuse to him when he fails to do his braking work that he was doing portering work. The braking work is 90 to 95 percent of a Negro train porter's duties. As a matter of fact, on troop trains during the war the Negro on the head end, who was called a train porter, had no portering work to do, because the Pullman porters kept the sleepers clean.

Here is where the insidious part of the thing comes in: BRT people took advantage of the nomenclature and difference in color. Basically it is the difference in color, and then they tried to raid the jobs. Why is that significant? That is significant because when, in the March 14, 1928, agreement on the Frisco, where there appeared to be no representative of the railroad trainmen, unfortunately the stencil was incorrectly made and the man's name was S. R. Harvey, the vice president of the Pennsylvania Railroad. This is signed by all four organizations, and this agreement is to the effect that only white men should be hired, except no restriction was then placed on hiring train porters. Now, under a threat of a \$4,000,000 suit, on April 5, 1949, they abrogated this agreement, but that does not make any difference so far as the practical effect is concerned, and because now, Mr. Congressman, we are in a period of declining railroading, and railroads have enough men furloughed, so there will be no more men hired maybe for the next 10 years. There has been a general decline in tonnage and now the general competition with other public-utility

carriers. So abrogating this agreement at the present time is a mere gesture, and the implication and imputation of prejudices remain, for the wrong has been done and the Negro fireman and brakeman have practically disappeared. Now the BRT is trying to get rid of the train porter who was exempted in the 1928 agreement.

As far as the firemen are concerned, let me take up this matter of promotions. If you did not know the facts behind it you would say now at least the brotherhood has had a change of heart. That is not true. You have to go back to the 1941 agreement to realize that on March 28, 1940, the Brotherhood of Locomotive Firemen and Engineers proposed that whenever any permanent vacancy occurred or any new runs were established, only promotable men should be hired or be assigned to those runs. Mind you, whenever any new run is established. If you have seasonal trains going to Florida in the wintertime, those are new runs when they are put on or when they are taken off and put on in the next season.

Mr. BURKE. I would like to interpose a question there. On the assignment on these new runs do they have a bidding system or a job posting system?

Mr. HOUSTON. They do. That goes back to the fact that on many of these railroads, for example the Southern Railroad, the Negro has been a victim of the percentage agreement; even if seniority entitled him to it, he could not hold but a certain percentage of the jobs. That is the important thing.

Mr. BURKE. I mean they are not written.

Mr. HOUSTON. The percentage agreements are written into the contract, as low as 10 percent on the Southern Railroad.

Mr. BURKE. I misunderstood the testimony.

Mr. POWELL. I know it and that is why I wanted Mr. Houston to make it clear, so you would get the real facts.

Mr. HOUSTON. The percentage agreement was written into the contract. The point there is there was a proposal that when new runs were established, as I said before, the change of starting time over 30 minutes constitutes a new run—every little technicality constitutes a new run—so you could take a man who had 40 years of service and throw him out just like that, on the theory that when a vacancy occurred there was no longer a Negro to be hired.

Mr. POWELL. Have you any cases where any men with seniority were thrown out?

Mr. HOUSTON. Steele was thrown out. He was working since 1905 and was thrown out by the operation of the 1941 agreement.

Mr. BURKE. What are the general qualifications on this job posting or bidding system? Is seniority the prime consideration?

Mr. HOUSTON. Worthiness and seniority.

Mr. BURKE. Worthiness first, or seniority first?

Mr. HOUSTON. Seniority first.

Let me point out another thing. Promotability or nonpromotability does not have anything to do with the work as fireman, it is solely concerned with the matter of promotion to engineer. There isn't a single test, not a single iota of duty which the Negro fireman performs that the white fireman does not perform, or vice versa, that the white fireman performs and the Negro fireman does not perform. Promotion is simply for one purpose, to qualify a man as an engineer,

and that is all. Economically, of course, it is a sound investment for the railroad to invest money, since they have wage equality in a man that the carrier can use for everything, but so far as the actual work is concerned, the work is identical. There is where the joker comes in, and why they are not candid, why the Brotherhood of Locomotive Firemen and Engineers is not candid when they tell you about the promotion proposal.

On the railroad the men who are called the roadmen as distinguished from yardmen, accumulate seniority in only one district on the line. For example, a man may run from here to New York and he will get seniority only in the district from here to New York. If he should run to Chicago, or Martinsburg, he takes seniority on that line and loses seniority on the other district.

Mr. BURKE. That is equal to departmental seniority, in effect.

Mr. HOUSTON. That is right. We have to admit that this Negro fireman problem is a southern problem at the present time, and not a northern problem. Negro firemen and trainmen work south of the Potomac River and south of the Ohio River—they do not even run into Washington any more, none of them run north of Richmond, none of them run north of Bowling Green, Ky.—so you have a peculiarly southern problem, where the FEPC State laws of the North have no application whatsoever. On the L. & N., which runs all the way up to Cincinnati, there are some southern seniority districts on which Negroes never have worked. The same thing on the Southern Railroad, and the same thing on the Coast Line.

What does the B. of L. E. and F. propose to do? What do they put in their contracts? You cannot say until you understand it. In the 1941 Southeastern Carriers Agreement they provided that on each railroad nonpromotable—Negro—firemen shall not exceed 50 percent. In other words, they had watered it down to 50 percent. There is never any floor under the hiring of Negroes, there is always a ceiling.

The important part of this is that this says this 50-percent rule does not permit the hiring of Negroes in any district where they are not now employed. You say then in the districts where we are employed we shall be limited to 50 percent, and, although we are watered down in such a district, they do not extend employment in any districts that we are not in. In other words, there is not watering down and distribution all over the railroad; this is simply watering down those particular districts and exclusion from others.

Here is the viciousness of this so-called promotion rule: They want the promotion, but they do not want the hiring of any new Negroes. In other words, all the Negroes we would lose because they might not be able to pass the promotion examination would simply be gone, and the rule against hiring still applies. In their notice of January 26, 1948, the B. of L. F. and E. reserved every other provision in the contracts and all the limitations on hiring will still apply. When they tell you that they want this promotion rule, let them also say that they never tried to put this rule into effect until after they had lost the Tunstall decision, going twice to the Supreme Court of the United States, in 1944 and 1947. On the question of good faith, certainly three or four United States courts cannot be wrong in absolutely enjoining any negotiation by the B. of L. F. and E. under this notice of January 26, 1948. They never consulted the Negroes about it before

serving the notice. They never would tell the Negroes one thing. If the B. of L. E. and E. would strike because the carrier wanted to hire Negro firemen, would they then strike if white firemen had to take orders from a Negro engineer? We asked them the question: "What support will you give us if we do pass the examination?" That has never been answered.

In other words, this is what they were doing: They were trying to get the railroad concerned with whether a Negro engineer might be sabotaged and have his train wrecked; they were trying to compound the difficulties of the Negro firemen by shoving him up to the engineer and there to bring the interest of another union, the B. of L. E., to become hostile to him. In other words, they were looking for support in their conflict with the Negro firemen. The courts have found that this proposal for promotion was not made in good faith.

Mr. BURKE. May I ask another question there on this question of district seniority? Do I understand you feel that that is a bar to nondiscriminatory practice?

Mr. HOUSTON. Oh, no; that has nothing to do with it whatsoever. This is all I said about that: That if the Brotherhood of Locomotive Firemen and Enginemen really wanted to be fair—and I recognize that Negroes have no right to stay as firemen; I realize in the course of time they must either work to be engineers or lose out on the railroads—there is no doubt about that—but what I oppose, Mr. Burke, is just this: If they want to be fair, why don't they take off the restrictions on hiring as well as the restrictions on promotion? Ask him if he has taken off any restrictions on hiring. Ask him if the Negro would be permitted to work if hired in any seniority district that they are not now working in.

Mr. BURKE. If this bill passes, then, of course, it will be cleared up.

Mr. HOUSTON. That is a different thing. All the contracts would be rewritten; they would be construed in the light of the law.

The only thing I object to, sir, is any attempt at twisting the facts, and the elimination and suppression of relevant circumstances. If you want to be fair, then give us some employment. It is the fact that Negro firemen have not been hired on the trunk railroads since 1928 because of the opposition of the brotherhood, the Brotherhood of Locomotive Firemen and Enginemen.

Mr. BURKE. Of course, the best way of arriving at the solution of the problem is by passage of this legislation.

Mr. HOUSTON. By the passage of legislation.

Mr. BURKE. I doubt very much whether it could be very effectively done over a period of years.

Mr. HOUSTON. Let me make this very definitely clear, even at the risk of postponing Negroes from coming on, I would not upset the seniority system. I would have Negroes fall in behind every man who is now employed and every man who is now on furlough. I ask no special consideration or dispensation for the Negro; I simply ask you to take off the bans. That is what the FEPC does.

Mr. POWELL. Where a man has been fired whose seniority has been established?

Mr. HOUSTON. That is where a man has already established his position, but I would not displace a single white man who acquired seniority to put a Negro on, unless the Negro is senior to him.

Mr. BURKE. May I ask a further question? Getting back to this train porter classification, the way it seems to me, that all boils down to just this: There is actually a false classification that has militated against the interests of that particular brotherhood and against its members in that labor supply for that job was obtained by the companies cheaper than it would otherwise have been obtained, and therefore, if the motive back of setting up this proposed classification were prejudicial, then there was extensive prejudice toward the workman.

Mr. HOUSTON. Mr. Burke, I agree 100 percent with you. I want to state openly, and state in the presence of these brotherhood men, that the history of Negroes on the railroads has been a history of exploitation on the part of the carriers and suppression on the part of the brotherhoods. The carriers always used them when they could hire them for fractional percentages or substandard wages. The history has no place in this, except as it is a continuing history, coming right down to date.

What I am saying is that the hostility which arose because of this economic competition, which has not been eliminated by the equalization of pay, still continues because these men are not members of the brotherhood.

I think we are going to stop them from representing us unless they let us help elect the persons who do the bargaining, unless they give us the right to come in and make proposals, unless they give us the same right of censure and the same right of removal.

We are now in a process of biting off piecemeal, simply chipping off, so to speak, the same principles by judicial decision which we are asking Congress here to do, asking here for a broad statement of policy in the present FEPC bill. Nothing revolutionary is intended because it is already anticipated in the decisions of the Supreme Court.

We are going to lose a lot of men, but to the credit of these old men—and remember these old men came in when the schools were not what they are now in the South—these old men say they are willing to take the promotion examinations, and even if they fail they have no complaint, if it makes a place for the boys and girls to come after them. They say they have the same incentive and same desire to see their sons and their nephews follow them on the railroads that the white railroadmen have with reference to their own sons and nephews.

If they want to talk about promotion, let us talk something about hiring, too, so we may have some replacements of the men we may lose through examinations.

Mr. POWELL. From your experience with the recent wartime FEPC of which you were a member, and in your knowledge of peacetime FEPC, have you ever met in industry any employer who offered as much resistance as have the brotherhoods?

Mr. HOUSTON. There was the East Alton case in Illinois, where management was absolutely opposed, but they gave the excuse that it was their workers. I don't think that is true; I don't think management is entitled to load all of this hostility on the workers. Generally speaking, the railroads themselves, the carriers, were just as hostile to the FEPC as were the railroad unions. I don't think there would be any distinction. Mr. Alderman, who was counsel for the railroads

before the Smith committee, was against the FEPC, and he was followed by Mr. Mulholland, of Toledo, Ohio.

Mr. POWELL. So you feel the railroads were against the FEPC; were against democracy and it applied to the workers?

Mr. HOUSTON. I should think the public utilities in general, not only as to Negroes, but as to the Spanish-speaking citizens, as to the Jewish people, as to all of the so-called minorities, the interstate public utilities are the toughest industries against minorities, both from the management standpoint and also from the standpoint of the unions. The unions in the public utilities, particularly the railroad unions, are perhaps the most reactionary of all the unions, the Big Four brotherhoods.

Mr. POWELL. Do you consider the clerks to be a part of the general picture?

Mr. HOUSTON. There is no doubt about that. Mr. Mulholland, in stating the problem, always wanted to holler about the fact that there were white women who were members of the clerks. They tried to drag in the social issues, on the theory that these Big Four brotherhoods originally started off as fraternal benefit associations and gradually changed over into labor unions. What we are interested in is in the particular union which controls our jobs. I think the good sense, the good breeding of the people would be sufficient to take care of the personal situations. There is no discrimination, no segregation in the locomotive cabs. Remember that white and black are working within 5 feet of each other in the locomotive cab. They are working there for hours and hours at a time. You do not have arguments between the fireman and his engineer; you do not have arguments between the trainman and his conductor.

Mr. POWELL. What is Mr. See talking about when he says people of the brotherhood would not accept such a situation, such democracy, when the fact is they work side by side?

Mr. HOUSTON. In the twenties, immediately after World War I, and also in the thirties when there were assassinations of the Negro firemen and trainmen, there is a history in that connection.

Mr. POWELL. There were assassinations?

Mr. HOUSTON. There were assassinations.

Mr. POWELL. Were any of them ever convicted?

Mr. HOUSTON. There was never a conviction, the usual stuff. I cannot give you the figures, but I think 13 firemen and trainmen were killed in the thirties, assassinated. That can be found in the Archives. The investigation was by Otto Beyer.

Mr. POWELL. In the National Archives?

Mr. HOUSTON. In the National Archives there is that story.

There are many individual members of all these unions who are in favor of fair employment practices, and who are in favor of elimination of discrimination. I am certain you will not find the resistance to be what it was before, and I think, as the gentleman testified, improvement is being made, but the only way to get improvement is to put all the facts on the table. You do not have the facts when somebody tells you they propose to eliminate all restrictions as to promotion and at the same time keep on all the restrictions as to hiring.

Mr. POWELL. The fact is these Negro workers are bringing these hearings about. Do you think that they are in danger themselves? Do you think there will be any repetition of the thirties?

Mr. HOUSTON. No; I think we are living in a different day. As a matter of fact, we have been talking about this now for 3 years and there has been no violence.

Mr. POWELL. If any violence occurs in any way I am sure you will let us learn about it as quickly as possible, so we can take the proper steps through the Government agencies, the FBI, and so forth.

Mr. HOUSTON. I will certainly do that, Mr. Chairman, but I would like to say the American people are now of a different temperament. If you recall the restrictive-covenant cases, there has been only one instance of violence; in the education cases there has been absolutely no instance of violence. I think we are in a different trend, and I think America is ready for abolition of the discriminatory practices.

Mr. POWELL. Mr. McBride, is there anything you would like to add?

Mr. McBRIDE. All I want to say is that I believe the hiring of firemen is a prerogative the railroad companies have insisted belongs to them.

Mr. HOUSTON. Mr. Chairman, while hiring is a prerogative of the railroad nevertheless down on the ground the master mechanic, the roundhouse foremen will say to the local chairman of the brotherhood lodge, "Bring me so many men," so that, as a matter of fact, hiring is actually assisted in by the brotherhoods unofficially.

Mr. McBAIDE. That is news to me. I don't think that is true. In my 46 years' experience I never heard that our organization had the authority to furnish the men to be employed as locomotive firemen.

Mr. HOUSTON. May I ask the witness how he can argue that the brotherhood has no interest or voice about hiring when the fact is that, when management proposed to hire Negroes, the brotherhood proposed to strike.

Mr. POWELL. Through the Chairman, Mr. Houston would like to ask if the railroads proposed to hire Negroes then why was it that the brotherhoods proposed to strike, if they have nothing to do with the hiring?

Mr. McBRIDE. The situation that he is speaking of is just one particular instance. What I had in mind was the general, over-all hiring of locomotive firemen. I have no knowledge that the railroad companies consult us or consult our organizations to hire these men.

Mr. POWELL. In these particular instances, on the Atlantic Coast Line and the other railroads, the Chattanooga Railroad and Baltimore & Ohio, when the railroads were going to employ Negroes the brotherhood said they would strike if they employed them.

Mr. McBRIDE. Did the brotherhoods take a strike vote?

Mr. POWELL. They threatened to.

Mr. HOUSTON. They did take it on the Coast Line in 1942.

Mr. POWELL. In 1942 the Atlantic Coast Line took a strike vote?

Mr. HOUSTON. Yes.

Mr. POWELL. What was the vote?

Mr. HOUSTON. I don't know what was the vote, but I know they took a strike vote under Thad Lee as general chairman.

Mr. POWELL. The Atlantic Coast Line did take a strike vote.

Mr. McBRIDE. Nine years ago there was a jurisdictional dispute on the Atlantic & West Point, there were approximately 30 Negro firemen involved, of which the majority voted for the Brotherhood of Locomotive Firemen and Enginemen to represent them. Naturally when I

come up here and hear what sounds like antagonism, I did not know that there was anything of that kind existing.

Mr. POWELL. I do not know that this is antagonism.

Mr. McBRIDE. That is the feeling I got.

Mr. POWELL. If there is antagonism, frankly, against any organization, whether it is a union or otherwise, it is because the Constitution is "for whites only."

Mr. McBRIDE. Every time we get an increase in pay we include every man whether a colored man or not.

Mr. POWELL. That is not the question before us. The question is whether the Negro is displaced by whites.

Mr. McBRIDE. I believe you have my views on the question of seniority. The senior fireman should have the preference to assignments if qualified.

Mr. BURKE. You heard the questions I asked in regard to the seniority system and how it operates. Were the answers substantially the way you understand?

Mr. McBRIDE. Congressman Burke, on many railroads they have different systems of seniority rights. It is a matter for the men themselves to handle. I might cite the New York, Ontario & Western Railroad; they had a strike the other day. On that railroad they have three seniority districts. The firemen have what they call system of seniority. When they are promoted to engineer they give them 30 days to decide whether they shall be assigned to the northern division exclusively or southern exclusively, or the Scranton division.

Mr. BURKE. The seniority counts from the first day?

Mr. McBRIDE. That is right. That is a matter that they just take care of themselves.

Mr. BURKE. Well, this division or district seniority is not a universal practice on all railroads, is it?

Mr. McBRIDE. No. Some men prefer a divisional seniority to what they call a system seniority, because the system seniority, may cover many miles of territory and, in the event of a depression, men would be required to go many miles from home to exercise their seniority. If they are on a 150 mileage division and are displaced they can go to any place on that division where their seniority would entitle them to have a job.

Mr. BURKE. Do you find that there are more division seniority systems in operation than the other systems?

Mr. McBRIDE. From my experience, the question of voting for what seniority you will have, whether it is district or system, has never been a question of discrimination, it is a question of which system the men prefer.

Mr. POWELL. I would like to say it is now 4:30 and the committee will adjourn until tomorrow at 10 when we will hear the chairman of the State FEPC organization of New York and Massachusetts, and tomorrow at 2 o'clock we will hear the testimony of the representatives of the two remaining brotherhoods.

I would like, before the committee adjourns, to have placed in the record the statement of the Honorable Edward deGraffenried, of Alabama, a memorandum on discrimination against Negro railway workers in World War I and World War II, and memorandums on discriminations against Negro railway workers by the Brotherhood of Railroad Trainmen and the Brotherhood of Locomotive Firemen and Enginemen.

(The matters referred to are as follows:)

STATEMENT OF HON. EDWARD DEXTRAFFENHED, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ALABAMA

On behalf of the people of my congressional district, of my State, and of my section of the country, I wish to ask the committee to include in H. R. 4453 a provision which would allow the States to choose for themselves with regard to the prohibition of discrimination in employment because of race, color, religion, or national origin.

There is at present no law requiring an employer to hire any applicant merely because his education and experience qualify him on paper for the job he is seeking. With the exception of cases involving veterans preference, an employer is free to choose an employee from a number of equally qualified persons, judging on the basis of temperament, personality, manner, or general potential capacity for getting along with fellow workers. This freedom of the employer to choose employees without the supervision of the Federal Government is definitely a democratic principle and it should be preserved.

As part of its platform for the 1948 Presidential election the Communist Party demanded "a national FEPC law, to be vigorously and fully enforced."

While there is racial inequality between Negroes and whites in the South, there is no acute problem resulting therefrom. Each race has its own place in our culture and the two have lived together with remarkably little dissension. We can continue to live together in harmony if we are left alone, but neither race is ready for so drastic and sudden a change in the relationship which has existed and worked for so many years. Outside interference can only, at best, bring to a head a problem which will surely solve itself in time without the ill feeling and resentment which is bound to come if the issue is forced by the enactment of the Federal Fair Employment Practices Act.

The following is a quotation from a letter which I have received from Davis Lee, Negro publisher of the Telegram newspapers: "As a Negro, naturally I want to see my race enjoy every right, every privilege, and every opportunity enjoyed by every other American, but I am convinced by experience and keen observation that he is acquiring these privileges, opportunities, and rights as he is capable of utilizing them, and that to enact such drastic legislation now would precipitate the very thing which we are seeking to avoid, racial conflict."

MEMORANDUM ON DISCRIMINATION AGAINST NEGRO RAILWAY WORKERS IN WORLD WAR I AND WORLD WAR II

Before World War I, the Big Four brotherhoods (Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Brotherhood of Railroad Trainmen, and Order of Railway Conductors) tried to drive Negro firemen and trainmen off the railroads under the excuse that Negroes were working for substandard wages, and consequently held down wages for whites and hindered unionization.

1918—*Equalization of wages*.—On May 27, 1918, the United States Railroad Administration issued General Order No. 27, under which article VI equalized wages for Negro and white train and engine service employees:

"ARTICLE VI.—COLORED FIREMEN, TRAINMEN, AND SWITCHMEN

"Effective June 1, 1918, colored men employed as firemen, trainmen, and switchmen shall be paid the same rates of wages as are paid white men in the same capacities.

"Back pay for period January 1, to May 31, 1918, will be based only upon the increases provided in article II of this order for such positions. Back payments will not apply to the further increased rate made effective by this article."

1918—*Further clarification of equal-wage scale*.—Some question arose whether the Negro train porter who did all the head-end braking work on passenger trains, handled mail and baggage, cleaned cars en route and assisted in loading and unloading passengers for mere pittance wages, was included in the wage-equalization scheme under General Order No. 27, article VI above, as a trainman.

To set all doubts at rest, on December 2, 1918, the United States Railroad Administration issued supplement 12 to General Order No. 27 setting up certain functional tests for classification as brakeman and equalizing wages.

"SUPPLEMENT NO. 12 TO GENERAL ORDER NO. 27"

"To carry out the intent of article VI of General Order No. 27 and retroactive to June 1, 1916, it is ordered:

"1. Employees in a passenger-train crew, except conductor, collector, and baggage-master, qualified and regularly required to perform the following duties, will be designated as passenger brakemen or flagmen and paid accordingly:

"(a) Inspect cars and test signal and brake apparatus for the safety of train movement.

"(b) Use hand and lamp signals for the protection and movement of trains.

"(c) Open and close switches.

"(d) Couple and uncouple cars and engines and the hose and chain attachments thereof.

"(e) Compare watches when required by rule.

"2. Where white brakemen are not employed, the compensation and overtime rule for colored brakemen shall be the same, for both passenger and freight service, as for the same positions on the minimum paid contiguous road.

"3. This order shall not curtail the duties of employees heretofore classed as train porters.

"4. This order shall not infringe upon the seniority rights of white trainmen.

"W. G. McAdoo,

"Director General of Railroads."

1919.—*Further attempts to drive Negroes out of service.*—After equalization of wages and reclassification of the Negro "train porters" as passenger brakemen the unions, instead of dropping the fight against the Negro train and engine workers, intensified the fight to take away their jobs, forcing the United States Railroad Administration April 22, 1919, to issue supplement No. 20 to General Order No. 27.

"UNITED STATES RAILROAD ADMINISTRATION,

"Washington, April 22, 1919.

"SUPPLEMENT NO. 20 TO GENERAL ORDER NO. 27—INTERPRETATION OF ALL WAGE ORDERS ISSUED BY THE DIRECTOR GENERAL

"From time to time my attention has been called to claims made by employees that a wage order or supplement thereto has established jurisdiction for certain organizations of employees over all employees named therein.

"In some instances members of certain organizations of employees have demanded the removal of employees, some of whom have served many years in such positions, the demand being based upon the belief that the classification of employees named in certain supplements or wage orders established rights to make such demands.

"No wage order or supplement thereto issued by the Director General has any such intent. These orders simply govern wages and working conditions of the employees found in such positions, and no employees will be removed from the service because of the language of any wage order or supplement thereto.

"Questions of jurisdiction arising between organizations of employees must be adjusted between themselves, as the Director General has not and will not become involved in jurisdictional disputes between organizations of employees.

"WALKER D. HINES,

"Director General of Railroads."

[World War I]

[Source: Locomotive Firemen's Magazine, August 15, 1917, pp. 11-12, LC HD 6350, R35, B 8, vol. 63]

RAILROADS EAGER TO EMPLOY NEGROES IN TRAIN SERVICE

The following important circular on this question was issued August 9, 1917, by Acting President Shea to all general and local chairmen and recording secretaries of subordinate lodges.

During the early part of June 1917 information reached the international president that the Baltimore & Ohio Railroad management contemplated employing Negro firemen. It was stated the company was importing Negroes from the South under contract for this purpose.

President Carter, before going away on his leave of absence, prepared an article on this question, which appeared in the June 15 issue of the magazine, and which explains the situation in detail and very clearly shows the purpose of this movement. We trust every member of this brotherhood has read this article—if not, they should do so in order to learn for themselves the purpose of the railroads in their desire to employ Negroes as firemen on roads where they are not now employed.

While in New York during the month of July, meeting with the Commission of Eight, I received information to the effect that the Baltimore & Ohio Railroad had called some of our local chairmen to ascertain the attitude of this brotherhood in the event Negroes were employed to fire engines. Upon receiving this information, I wired General Chairman A. B. Miller, of the Baltimore & Ohio Railroad, the following:

"Have just been advised that the Baltimore & Ohio roundhouse foreman at Cleveland approached local chairman, lodge 10, relative to his attitude in event Negro firemen were placed on locomotives as firemen. Suggest that you immediately file a vigorous protest with your general manager against the employment of Negro firemen and you shall have the support of this organization to prevent the advent of Negro firemen on your road. Insist upon an early reply and advise me. Grand Chief Engineer Stone is taking the matter up with his chairman."

Realizing the seriousness of the situation and feeling that this matter involved the Brotherhood of Locomotive Engineers, I conferred with Grand Chief Engineer Stone, who was present in New York as a member of the Commission of Eight, and he wired his general chairman, as follows:

"Understand Baltimore & Ohio men are being canvassed at Cleveland regarding their attitude toward the placing of Negro firemen on engines. Take necessary steps to investigate; if found correct, promptly file protest with management. Until further advised men will be supported in refusing to take them out."

As a result of the protest of the general chairman of the B. of L. E. and B. of L. F. and E. against the employment of Negroes as firemen, the company relieves several Negro firemen they had employed in the Pittsburgh district, and informed the chairman that it would not be the policy of the Baltimore & Ohio Railroad to employ this class of labor.

Believing there were other railroads that might employ Negro firemen, the advisory board of the Brotherhood of Locomotive Engineers, in session at Cleveland, took action on the question, and I received a letter from Grand Chief Engineer Stone showing the action taken as follows:

"Resolved, That it will be the policy of the B. of L. E. that Negroes will not be permitted to fire locomotives on any railroad that does not now employ them as such, and will request that on such roads as do now employ them, that they be confined to the districts as defined for them at the present time, and that the percentage of Negro firemen on divisions where they are employed jointly with white firemen be not increased."

To the foregoing I replied, in part, as follows:

"This will acknowledge receipt of your letter of the 2d instant with the enclosed copy of letter addressed jointly to Brothers Sheppard and Dodge and myself which embodies resolutions adopted by your advisory board on July 26 defining the position of the Brotherhood of Locomotive Engineers regarding the employment of Negro firemen on railroads where white firemen are now exclusively employed, also on roads where it is now the practice to employ a certain percentage of Negro firemen jointly with white firemen."

"Let me say at the outset that the action taken by your organization is highly commendable and keenly appreciated by the Brotherhood of Locomotive Firemen and Engineers, and to accomplish the end as outlined in the resolutions your organization will have the heartiest cooperation of the B. of L. F. and E."

Since the adjustment of this question on the Baltimore & Ohio Railroad I received a communication from the general chairman of the New York, New Haven & Hartford Railroad advising that officials of that company were stating to our members that in all probability it would be necessary to employ Negroes as firemen and asking what the policy of this brotherhood would be in the event this class of labor was employed to which I replied by wire as follows:

"Have your letter regarding employment of Negro firemen on New Haven Railroad. You should take this matter up immediately with general manager and file vigorous protest against employment of Negro firemen and you will have the support of this organization to prevent the advent of this class of labor on your road, and to accomplish this end our members will be supported in refusing to work when Negroes are employed as firemen."

It is stated by the railroads that the reason they desire to employ Negro firemen is because they cannot secure white firemen. This, we are sure, is only a subterfuge because there are large numbers of white men who would like to enter the service of the railroads as firemen or trainmen, and if the present rate of wage is not high enough to operate as an incentive for white men to seek positions as locomotive firemen or railroad trainmen, then the wages should be raised to a figure that would justify white men seeking such employment.

It must be apparent to anyone having any knowledge of the situation that the primary purpose of the employment of Negroes in railroad engine or train service at this time is to take advantage of the war excitement and under the pretext of war exigencies install in such occupations a class of labor that can be easily exploited, a class of labor that will work for such wages as the railroad companies see fit to pay them, a class of labor that is not protected by organization, and whose employment would operate to reduce railroad wages to or below the starvation standard, and also to seriously impair the efficiency and greatly weaken the economic power of the four transportation brotherhoods.

We are sure this situation affects the other two organizations, and we understand that similar action will be taken by them. Therefore, the four organizations should work concertedly and handle the matter jointly on any railroad on which it is attempted to employ Negroes in engine or train service.

I would suggest to our committees when they receive information that their company, even contemplates the employment of Negroes in engine service to immediately communicate this information to the general chairman, and he, in turn, to file a protest, and they will have the support of this organization to prevent the advent of Negro firemen even to the extent of refusing to work when this class of labor is employed.

[World War I]

[Source: Locomotive Firemen's magazine, September 1, 1917, page 6, L.C. HD 6350 R85 B9, vol. 63]

THE NEGRO FIREMAN QUESTION

Acting President Shen's declaration in this connection leaves no doubt as to the position of our brotherhood.

In the August 15 issue Acting President Shen calls attention to the purpose of the railroads under one pretext or another to employ Negroes to fire locomotives. Evidently it is the intention of many railroad managements to put this over if they can get away with it. Now, as a matter of fact, it is not due to any scarcity of labor or to any love that the railroad companies have for the Negro that they desire to employ him in engine service, by no means. An entirely different motive actuates them and that motive is threefold.

First. They want to introduce Negroes generally into this field because they do not want to pay white men the wages that the work is worth.

Second. They realize that the southern Negro being as a class docile, submissive, and unenlightened, would be an easy victim for their exploitation.

Third. The general employment of Negroes as locomotive firemen would materially reduce the membership of our brotherhood and weaken and undermine it and keep wages down.

It should be clearly understood that it is not because of any prejudice we entertain against any race or color that we are protesting against the employment of Negroes as locomotive firemen on railroads on which they are not now so employed, or that we object to their being employed on other roads * * * so many years they have in that capacity operated as an obstruction to the establishment of just wage and employment conditions. Our objection to the employment of Negroes in this capacity arises from the knowledge we have acquired as the result of many years of experience of the extent to which railroad companies use the Negroes to keep white workers down.

In his circular, Acting President Shea sets forth that as a result of his protest, the employment of Negroes as locomotive firemen has been discontinued on the B. & O. Railroad and that those who had been in its service are no longer in the employ of that company in that capacity. Acting President Shea also sets forth in his circular in plain and unmistakable language the policy adopted by the advisory board of the Brotherhood of Locomotive Engineers as announced by Grand Chief Stone.

The employment of Negroes as firemen would mean also their employment as brakemen and no doubt many railroad managements would like to have Negro engineers if it were possible to select from amongst Negro firemen any who could be qualified for such a responsible position and the reason these railroad companies would like to do this is because a Negro engineer would be as docile and subservient to exploitation as would a Negro fireman.

In the face of Acting President Shea's circular, there is absolutely no excuse for the railroad companies to misunderstand our position in the matter nor to doubt the determination of the Brotherhood of Locomotive Engineers to support us in maintaining that position, for Acting President Shea clearly and unequivocally has given our general chairman and grievance committee to understand that in opposing the employment of Negroes as firemen on roads where white firemen are at present exclusively employed, they will be supported by this organization even to the extent of instructing their men to refuse to work with this class of labor.

[World War II]

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEERS STRIKE BALLOT AGAINST HIRING OF NEGRO FIREMEN ON THE ATLANTIC COAST LINE RAILROAD CO.

To officers and members of the Brotherhood of Locomotive Firemen and Engineers and other employees of the classes represented by that organization on the Atlantic Coast Line Railroad and Charleston & Western Carolina Railway

SHIR AND BROTHERS: There was no agreement governing wages and working conditions of locomotive firemen, hostlers, and hostler helpers on the Atlantic Coast Line Railroad until 1919, at which time the B. of L. F. & E. secured representation and negotiated an agreement. Only about 20 percent of the firemen were of a promotable character at that time, and, as a result, the company had great difficulty in maintaining enough engineers to take care of its business.

Through the efforts of the B. of L. F. & E. understandings were reached from time to time with the management to the effect that promotable men would be hired in greater numbers.

In 1925 former General Chairman H. L. Glenn reached a gentlemen's agreement with the management that only promotable men would be hired. White men then and now are classed by the management as promotable, and Negroes were then and are now classed by the management as nonpromotable.

There were * * * violations of this gentlemen's agreement between 1925 and 1927, all of which were duly protested, and in most cases corrections were made. However, since 1927 the agreement has been religiously observed, and only promotable firemen were hired until the latter part of 1942.

In 1927 the general grievance committee was successful in negotiating an agreement with the management providing that one-third of all assignments would be filled by white men, who, as heretofore stated, are considered promotable by the management. Promotable firemen are required to undergo very strict examinations, promotable firemen are dismissed from the service. Many have been dismissed in the past, and, no doubt, many will be dismissed in the future for failure to pass the examinations. Nonpromotable men never become engineers but continue on as firemen, filling the places where promotable men must get their training.

In 1929 the general grievance committee succeeded in revising the agreement to provide that all assignment would be made on a ratio of 50-50 as between white and colored firemen—white firemen being promotable and colored firemen being nonpromotable.

Early in November 1942 General Chairman Lee learned, through rumor, that nonpromotable men were being hired as locomotive firemen. He wired General Manager Sibley as follows:

NOVEMBER 3, 1942.

Mr. C. C. SIBLEY,
General Manager, Atlantic Coast Line Railroad Co.,
Wilmington, N. C.:

I have information from my local representative at several terminals to the effect that local supervisors advised them that they had authority to employ nonpromotable firemen. Trust this information is erroneous. Please advise if such authority has been granted and if management contemplates employing

nonpromotable firemen. Local committees will be glad to cooperate and furnish sufficient promotable applicants if called upon by local supervisors.

(Signed) THAD S. LEE.

The general manager made no answer to this telegram.

On January 17 General Chairman Lee again wired General Manager Sibley and asked that he name a date for conference with the executive committee. November 23 was named, and conference held on that date. Mr. Sibley tried to evade the issue by denying that any instructions had been issued to the employing officers to hire nonpromotable men; notwithstanding, members of the executive committee made it clear that they had been informed by some of the employing officers that they had such instructions.

November 24 the executive committee again met the general manager, at which time Vice President Tillery, of the brotherhood, was present. This conference bore no more fruit than the one on the 23d. The gentlemen's agreement was called to the general manager's attention on a number of times, and each time he denied any knowledge of it. After the conference was concluded Vice President Tillery wired former General Chairman Glenn, who is now connected with the Manpower Department of the United States Government. November 25 Brother Glenn replied, and same is herewith quoted.

NOVEMBER 25, 1943—5: 37 P. M.

R. J. TILLERY,

Wilmington Hotel, Wilmington, N. C.:

Your wire date conference during May 1925 with F. W. Brown, the assistant manager, it was verbally agreed that no nonpromotable firemen would be hired in the future. During the fall of 1925 some nonpromotable men were hired on the Montgomery district and the Jacksonville district. Practically all of those were eliminated from the seniority roster and I am sure by checking the roster since 1925 you will find that this understanding has been complied with on the system. Efforts were made by Pearsall and Bullock to hire nonpromotable men on Richmond and Fayetteville district and on protest by the committee they were instructed to hire only promotable men.

(Signed) R. L. GLENN.

An attempt was then made to appeal to Vice President F. W. Brown, however, he declined to meet the officers of the brotherhood. Vice President Tillery finally succeeded in contacting him by telephone, and among other things, called attention to the gentleman's agreement he had with former General Chairman Glenn. Brown denied that he had ever talked with Glenn about the matter. Later Vice President Tillery personally talked with Glenn and he confirmed his statement made by wire, which has heretofore been quoted.

After all efforts had apparently failed to effect a settlement through conferences with the management the following letter was sent to General Manager Sibley:

WILMINGTON, N. C., December 1, 1942.

Mr. C. C. SIBLEY,

General Manager, Atlantic Coast Line Railroad,

Wilmington, D. C.

DEAR SIR: Referring our conference November 24, regarding the employment of nonpromotable firemen.

You declined to discontinue the practice of employing such men and I have since undertaken to appeal or at least talk with Vice President Brown about the matter. Mr. Brown declined to see me.

We made it very clear to you that we were ready and willing to cooperate with the company in securing sufficient promotable men to meet all needs. You made no comment in this connection and, of course, we can only assume the company does not desire our cooperation. We undertook to point out to you and now repeat, that it is unfair to the promotable men to have the jobs as firemen filled with nonpromotable men who apparently have no responsibilities except to act as firemen and eventually become drones, while the promotable men must study, purchase expensive books, etc., and if they fail to pass the very strict examinations required for them they are removed from the service. The nonpromotable men, therefore, do not contribute to the efficient and safe operation of the railroad. The general public certainly is vitally interested in safety at least.

The promotable men now being hired by the Atlantic Coast Line are all Negroes, so far as we know. These Negroes are nonpromotable because the management has decreed that they be nonpromotable. We found, at the conference, that you indicated a desire to discuss discrimination as between the Negro and white race. In that connection you said nothing about the company promoting only white men to the position of locomotive engineers.

We are, indeed sorry that the management has taken the position it has in this important matter and hope that upon further reflection our position will be agreed to, as certainly your decision given at the conference will not be accepted.

Very truly yours,

R. J. TILLERY,
Vice President, B. of L. F. & E.

Copy to: Thad S. Lee, general chairman, B. of L. F. & E.

On December 9, General Chairman Lee convened the entire general grievance committee in Jacksonville, Fla., and after very thorough consideration was given the entire matter the following resolution was unanimously adopted.

"Whereas the management of the Atlantic Coast Line Railroad entered into a gentlemen's agreement in 1925, or thereabouts with a representative of the Brotherhood of Locomotive Firemen and Engineers to the effect that no more nonpromotable men would be employed as locomotive firemen and from 1927 to latter part of 1942 this agreement has been fully complied with by the employing officers of the railroad, and

"Whereas beginning about November 1, 1942, the management of the railroad began employing nonpromotable men some of whom have now actually established seniority by performing service for pay, and

"Whereas the general chairman and the executive committee with the assistance of a grand lodge officer have failed through peaceful negotiations to induce the management to observe the gentlemen's agreement above referred to, and

"Whereas through the peaceful negotiations the Brotherhood of Locomotive Firemen and Engineers have been unable to effect a settlement of the dispute: Therefore be it

"Resolved, That the entire matter be submitted to the membership and other firemen, hostlers, and hostler-helpers on the Atlantic Coast Line Railroad and the Charleston & Western Carolina Railway Co., in the form of a strike ballot, so that they may decide for themselves whether they will leave the service and participate in a strike in accordance with the laws of the Brotherhood of Locomotive Firemen and Engineers if a satisfactory settlement cannot otherwise be reached, and be it further

"Resolved, That the general chairman with the assistance of the grand lodge officer assigned to assist, is hereby authorized and directed to prepare and forward to the local chairman and assistant local chairman the strike ballot with necessary instructions for taking the vote, and such instructions to include fixing a time and date for counting the vote and announcing the results, and be it further

"Resolved, That in event a majority vote in favor of withdrawing from the service, the general chairman and grand lodge officer, shall have authority, with the approval of the international president, to fix a date and time for the strike to become effective and to issue necessary instructions for the conduct of the strike.

Jacksonville, Fla., December 9, 1942.

The committee then adopted a motion as follows:

"That because of the fact that the Jacksonville Terminal Co. is not represented by the management of the Atlantic Coast Line Railroad and the Charleston & Western Carolina Railway, and the further fact that no attempt has been made by the management of the Jacksonville Terminal Co. to violate the agreement by hiring nonpromotable men as locomotive firemen, hostlers, and hostler-helpers, it is the sense of this committee that the resolution, just adopted, providing for the spreading of a strike ballot on the Atlantic Coast Line and Charleston & Western Carolina Railway, will not apply to the Jacksonville Terminal Co., unless the management of the Jacksonville Terminal Co. later violate the agreement by hiring nonpromotable men. In that event, the general chairman and the grand lodge officer assigned, are hereby authorized and directed to arrange for a strike ballot to also be spread on the property."

From the foregoing it will be quite evident to you that the management has decided to completely disregard the gentlemen's agreement of long standing without just cause, thereby restoring a condition existing prior to 1925. In other words, all firing assignments of any importance will be filled by nonpromotable firemen. The reason for the management adopting this policy, in the opinion of the committee, is for the purpose of weakening the organizations on the property. Certainly there could be no point in hiring men who cannot, under the management's policy, follow through in any position which they may qualify for promotion. Nonpromotable firemen, regardless of education or ability when hired, will have very little incentive and naturally become drones. They will, however, fill the places where the promotable men must get their training in order to become efficient and safe engineers.

Therefore, the appropriate representatives of the organization representing the agreement, after a full review of the circumstances related to the situation, have voted unanimously to refer the matter to the membership and others employed in the capacities represented by the organization, for their consideration and vote as to whether or not they are in favor of peacefully withdrawing from the service and engaging in a legal strike authorized in accordance with the laws of the organization, unless a settlement satisfactory to the general chairman and grand lodge officer assigned can be reached before date strike is scheduled to begin.

This statement is submitted for your information.

Attached is a ballot on which you will cast your vote for or against a strike. Sign your name, occupation, lodge number, if a member, and place in envelope provided which is marked "ballot," and hand to the party who furnished you with this statement and ballot.

Yours fraternally,

THAD S. LEE,
General Chairman, B. of L. F. & E.,
Atlantic Coast Line, Charleston & Western Carolina.

Approved:

R. J. TILLERY,
Vice President, B. of L. F. & E.

[Copy]

BALLOT

I have carefully read the attached statement with reference to the hiring of nonpromotable firemen, and hereby cast my vote _____ a strike if
(for) (against)
settlement satisfactory to the grand lodge officer and general chairman cannot be obtained. I hereby authorize the grand lodge officer assigned and the general chairman or their duly authorized representative to act as my agents or attorneys in the further handling of the matter.

Name _____
Occupation _____
Member B. of L. F. & E. _____
Lodge No. _____
Nonmember _____

MEMORANDUM ON DISCRIMINATIONS AGAINST NEGRO RAILWAY WORKERS BY BROTHERHOOD OF RAILROAD TRAINMEN

1883.—The Brotherhood of Railroad Trainmen was organized in 1883 as the Brotherhood of Railroad Brakemen of the Western Hemisphere, and so continued until 1886.

1884.—The first annual convention of the organization in 1884 adopted a constitutional provision restricting membership to "whites" only.

1888.—From 1886 to 1889 the organization was known as the Brotherhood of Railroad Brakemen.

1890.—The present name of the organization: Brotherhood of Railroad Trainmen was adopted in 1890.

The Brotherhood of Railroad Trainmen by constitution still exclude Negroes from membership in all Southern States.

1898.—In 1898 Grand Master Morrissey and the General Grievance Committee, Brotherhood of Railroad Trainmen, on the entire Missouri Pacific System met

management of the system in an effort to effect the removal of the Negro brakemen on the entire system (Proceedings, Fourth Biennial Convention, 1899, p. 19).

1899.—In 1899 the general grievance committee of the Brotherhood of Railroad Trainmen, together with A. B. Youngson of the Brotherhood of Locomotive Engineers, F. P. Sargent of the Brotherhood of Locomotive Firemen and Engineers, E. C. Clark of the Order of Railway Conductors, and W. V. Powell of the Order of Railroad Telegraphers and the committees of the five organizations negotiated an agreement with the Gulf, Colorado and Santa Fe Railway on displacing colored porters on passenger trains and white brakemen being placed in these positions (Report of Grand Master Morrissey, Fifth Biennial Convention, Milwaukee, 1901, p. 10).

1899.—The Fourth Biennial Convention of the Brotherhood of Railroad Trainmen at New Orleans, 1899, commended Grand Master Morrissey's efforts in 1898 to have Negro brakemen replaced by whites in certain railroads (proceedings, pp. 19 and 72).

1899.—The Fourth Biennial Convention above protested the employment of Negroes on all railway trains and requested the Order of Railway Conductors, Brotherhood of Locomotive Firemen, Brotherhood of Locomotive Engineers and the Order of Railroad Telegraphers to give their support toward clearing the lines of Negro workmen (proceedings, pp. 59-60).

1901.—Second Vice Grand Master Dodge reported to the Fifth Biennial Convention at Milwaukee, 1901, that some of the lodges have succeeded, to a great extent, in having the Negro taken off trains, and the men of the South are using their utmost efforts to have the Negro taken from the service (proceedings, p. 12).

1905.—In 1905 the Brotherhood of Railroad Trainmen committee negotiated an agreement with the Norfolk & Western R. Co. that no more Negroes would be hired as brakemen for road service.

1910.—July 2, 1910, the Brotherhood of Railroad Trainmen and Order of Railway Conductors Southern Association of General Committees negotiated the "Washington agreement with the Southern Railway Co., Atlantic Coast Line R. Co., Seaboard Air Line R. Co., and other southern roads providing that Negroes were not to be employed as baggagemen, flagmen, or yard foremen; where Negroes held such positions at the time of making the contract, any vacancies in such position should be filled by whites (report of Vice President Val Fitzpatrick, 10th biennial convention, Harrisburg, 1911; pp. 445-449).

1911.—The tenth biennial convention, Brotherhood of Railroad Trainmen, at Harrisburg, Pa., 1911, adopted a resolution that railroads should employ only promotable men in train and yard service (proceedings, pp. 175-176).

1911.—The Brotherhood of Railroad Trainmen committee February 2, 1911, negotiated an agreement with the Florida East Coast R. Co. that no more Negroes would be employed in train or yard service, pursuant to contract effective November 1, 1910 (report of President Lee, 11th biennial convention, San Francisco, 1913, p. 25).

1911.—The Brotherhood of Railroad Trainmen committee March 15, 1911, negotiated an agreement that no more Negroes were to be employed as yard conductors, baggagemen, or flagmen, and the percentage of Negro train or yardmen employed should not exceed the percentage in service July 1, 1910 (report of Vice President Fitzpatrick, 11th biennial convention, pp. 117-118).

1911.—The Southern Association of General Committees of the Order of Railway Conductors and Brotherhood of Railroad Trainmen June 30, 1911, negotiated an agreement with Cincinnati, N. O. & Texas Pacific and Alabama Great Southern Ry.; Central of Georgia; Mobile & Ohio and Southern Ry. of Mississippi; Georgia, Southern & Florida R.; New Orleans & Northeastern, Alabama & Vicksburg Ry., and Vicksburg, Shreveport & Pacific Ry.; Southern Ry. and Virginia & Southwestern Ry.; Atlantic Coast Line, that when Negroes who perform work as flagmen, or Negro foremen become separated from the service, their places would be filled by white men (report of President Lee, 11th biennial convention, pp. 50-54).

1913.—The Brotherhood of Railroad Trainmen committee negotiated an agreement with the Norfolk Southern Ry. Co. February 1913, that the percentage of colored trainmen will not be increased (report of Vice President Val Fitzpatrick for 1913, p. 204).

1914.—The general committee of the Brotherhood of Railroad Trainmen in 1914 was able to displace 14 Negro brakemen with white brakemen on the Gulf, Colorado & Santa Fe Railway (circular of instructions, C-13, August 1914, Railroad Trainmen's magazine, September 1914, p. 831).

1914.—The Brotherhood of Railroad Trainmen committee was successful in 1914 in placing 13 white flagmen on passenger runs on the St. Louis-San Francisco, displacing Negroes (report of President Lee for 1914, p. 641; St. Louis-San Francisco Railroad—file 6382).

1914.—On or about May 15, 1914, Val Fitzpatrick, vice president and national legislative representative, B. R. T., joined with P. J. McNamara, vice president, B. of L. E. & E., H. W. Wills, assistant grand chief engineer, B. L. E., and W. M. Clark, vice president, Order of Railway Conductors in writing the letter to Col. George W. Goethals set out in full as exhibit 1 hereto attached (Report on National Legislation, 63d Cong., 1914, by the national legislative representatives of the B. L. E. of L. E. & E., O. R. C. and B. R. T., December 1, 1914, to their organizations).

1915.—The general grievance committee, Brotherhood of Railroad Trainmen, for the Georgia Southern & Florida Railway, February 1915, although there was no breach of article 1 of the Washington agreement, secured the displacement of six Negro brakemen and replaced them with white brakemen. (Report of assistant to the president, T. R. Dodge, officers reports for 1915, p. 1135; Railroad Trainmen's Magazine, March 1915, p. 292.)

1915.—Assistant to the president, T. R. Dodge, Brotherhood of Railroad Trainmen, in conjunction with Vice President Turner, Order of Railway Conductors, met in 1915 with the joint general committees for the Cleveland, Cincinnati, Chicago & St. Louis Railway, and negotiated with management with result five colored trainmen on Chicago and St. Louis divisions were removed and white trainmen put in their positions. (Circular of Instruction C-28, November 1915; Railroad Trainmen's Magazine, December 1915, p. 1140.)

1916.—The First Triennial Convention, Brotherhood of Railroad Trainmen, at Detroit, Mich., in 1916, adopted a resolution instructing the general chairman on the Southeastern territory to use every means of the brotherhood to get white men the right to work on the front end (proceedings, p. 93).

1917.—An editorial in Railroad Trainmen's Magazine (October 1917, pp. 733-734) commended the Brotherhood of Locomotive Engineers and Brotherhood of Locomotive Firemen and Engineers for resisting the efforts of the Baltimore & Ohio to hire Negro firemen during the war emergency.

1917.—The Brotherhood of Railroad Trainmen committee, together with the committees of the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Engineers and Order of Railway Conductors, obtained the assignment of three white brakemen to a dodger crew on the Texas & Pacific Railway (file 6420) formerly manned by Negro brakemen (Circular of Instructions D-14, September 1917; Railroad Trainmen's Magazine, October 1917, p. 727).

1917.—The general grievance committee, Brotherhood of Railroad Trainmen, for Seaboard Air Line Railway (file 6442) negotiated an agreement with the carrier in 1917 restricting the employment of Negro trainmen when normal conditions prevail.

1919.—The Second Triennial Convention, Brotherhood of Railroad Trainmen, at Columbus, Ohio, in 1919, adopted a resolution calling for all general committees to incorporate into the schedule on each line of railroad a rule that no more non-promotable men will be employed; and that the practice of using train porters to perform the duties of baggagemen, flagmen, or brakemen be discontinued (proceedings, pp. 229-230).

1919.—The second triennial convention above adopted a resolution demanding that the Director General of Railroads restore the right of the Brotherhood of Railroad Trainmen "to make percentage agreements guaranteeing the Brotherhood of Railroad Trainmen a majority of men so employed, to the end that contracts made by this organization may be protected by it" (proceedings, p. 316).

1919.—In July, 1919, the Brotherhood of Railroad Trainmen advised Regional Director Winchell it was the desire of the Brotherhood to execute an agreement that would operate to prevent the employment of Negroes in train and yard service (proceedings, second triennial convention, 1922, pp. 172-175).

1919.—On March 1, 1919, the general committee, Brotherhood of Railroad Trainmen, Southern Railroad negotiated an agreement for removal of all Negro firemen in yard service at Chattanooga (report of President Lee for 1919, p. 73, Railroad Trainmen Magazine, May, 1919, p. 350).

1920.—The general grievance committee, Brotherhood of Railroad Trainmen, for Norfolk & Portsmouth Belt Line Railroad, April 2 and 8, 1920, negotiated an agreement reducing the employment of Negro trainmen from 83 percent to

30 percent, which protected the positions then held by white trainmen (report of President Lee for 1920, p. 106).

1928.—The Brotherhood of Railroad Trainmen did not give the Negro firemen or trainmen on the St. Louis-San Francisco Railway or its predecessor corporations property any notice or opportunity to be heard at any stage of the negotiations which resulted in the contract of March 14, 1928, prohibiting future hiring of Negroes in train, engine or yard service.

1943.—The Brotherhood of Railroad Trainmen general grievance committee on the St. Louis-San Francisco Railroad Co. through its chairman protested the proposal of the carrier to hire Negro trainmen during World War II, as a breach of the March 14, 1928, agreement.

White railway conductors are eligible for membership in the Brotherhood of Railroad Trainmen and frequently have membership in both Order of Railway Conductors and Brotherhood of Railroad Trainmen at the same time.

White trainmen are eligible for membership in Order of Railway Conductors and frequently have membership in both Order of Railway Conductors and Brotherhood of Railroad Trainmen at the same time.

1931.—The Sixth Triennial Convention, Brotherhood of Railroad Trainmen, at Houston, Tex., 1931, adopted a resolution empowering the president of the grand lodge to assign a grand lodge officer to assist the general committees in an effort to have the Negro train porters removed (proceedings, pp. 632-633).

1940 to date.—In the 1940's the Brotherhood of Railroad Trainmen has been conducting a drive on the Southwestern railroads (Missouri Pacific, M-K-T; Atchafalpa, Topeka & Santa Fe; St. Louis-San Francisco Railway) to take away from Negroes classified as "train porters" all the head-end braking work on passenger trains which they have been doing with BRT knowledge for more than 40 years and have this head-end braking work taken over by white brakemen (most of whom are BRT members).

MEMORANDUM ON DISCRIMINATIONS AGAINST NEGRO RAILWAY WORKERS BY BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEERS

1873.—The Brotherhood of Locomotive Firemen and Enginemen was organized in 1873.

1873.—The name of the organization was the Brotherhood of Locomotive Firemen.

1890.—The joint committee delegated by the Brotherhood of Trainmen, Brotherhood of Railway Conductors, Switchmen's Mutual Aid Association, and Brotherhood of Locomotive Firemen, composing the United Order of Railway Employees in 1890 requested the officers of the Houston & Texas Central Railway that all Negroes employed in train, yard, and locomotive departments of the Houston & Texas Central Railway System be removed and white men employed in their stead (Locomotive Firemen's magazine, December 1890, vol. 14, pp. 1004-1006).

1892.—Grand Master Sargent of the Brotherhood of Locomotive Firemen in August 1892 replied to the Brotherhood of Locomotive Engineers committee seeking cooperation with the Brotherhood of Locomotive Firemen that the Brotherhood of Locomotive Firemen wanted the Brotherhood of Locomotive Engineers "to remove from locomotives that class of men who cannot become members of our organization. * * * I refer to the colored men in the South." (Proceedings, BLE's first biennial session, St. Paul, Minn., May 9, 1894, pp. 50-60.)

1892.—Grand Master Sargent above reported to the Third Biennial Convention of the Brotherhood of Locomotive Firemen, Cincinnati, 1892, in words to this effect:

"I say to the engineers, when you will come to the firemen and show some interest in their welfare, when you will root out the colored firemen who are debarred from membership in our organization and demand that brotherhood men be placed in their positions, when your organization will give positive evidence that you are the friend and ally of the firemen, it will be time to consider a proposition looking forward to less promotion of firemen and the employment of engineers." Journal of Proceedings, Third Biennial Convention, BLE, pp. 58-59.

1894.—The qualification that a member had to be "white" was added to the constitutional provisions as to membership at the eleventh annual convention at Toronto in 1894.

1898.—Grand Master Sargent above addressed the Atlanta federated meeting of representatives of the Brotherhood of Railroad Trainmen, Brotherhood of

Locomotive Firemen, and Order of Railroad Telegraphers in 1898 to the effect that the object of the organizations was to have locomotive-firing jobs held by white firemen, eliminating Negroes (*Locomotive Firemen's magazine*, November 1898, vol. 80, pp. 520-528).

1898.—Grand Master Sargent above addressed a meeting in Norfolk, Va., in 1898, at which there were representatives of the conductors, trainmen, telegraphers, firemen, and engineers that the elimination of the Negro from the railroad service was the most important subject for discussion and official action by the body (*Locomotive Firemen's magazine*, January 1899, vol. 20, pp. 109-110).

1900.—One of the resolutions adopted at the Brotherhood of Locomotive Firemen's Des Moines Convention, 1900, was to instruct the grand master to send two or more vice grand masters into southern territory for the purpose of organizing the white firemen and eliminating the Negro firemen (*Locomotive Firemen's Magazine*, November 1900, vol. 29, pp. 426, 430-431).

1914.—On May 16, 1914, P. J. McNamara, vice president and national legislative representative, Brotherhood of Locomotive Firemen and Enginemen, joined with H. E. Willis, assistant grand chief engineer, Brotherhood of Locomotive Engineers; W. M. Clark, vice president, Order of Railway Conductors; and Val Fitzpatrick, vice president, Brotherhood of Railroad Trainmen, in writing the letter to Col. George W. Goethals, set out in full as an exhibit hereto attached (Report on National Legislation, 63d Cong., 1914, by the national legislative representatives of the BLE, B. L. F. & E., ORC, and BRT, December 1, 1914, to their organizations).

1917.—President W. S. Carter, of the Brotherhood of Locomotive Firemen and Enginemen, in 1917 instructed all general committees and local committees to protest the introduction of Negro firemen on any railroad where they were not then employed (*Brotherhood of Locomotive Firemen and Enginemen's Magazine*, June 15, 1917, vol. 62, p. 9).

1917.—Acting President Shea, of the Brotherhood of Locomotive Firemen and Enginemen in 1917 ordered the Brotherhood of Locomotive Firemen and Enginemen general chairman on the Baltimore & Ohi Railroad property to protest the hiring of Negro firemen on that property and issued a circular to all Brotherhood of Locomotive Firemen and Enginemen lodges stating they would have the support of the Brotherhood of Locomotive Firemen and Enginemen in striking against any attempt to employ Negroes in train and engine service, even under war conditions (*Brotherhood of Locomotive Firemen and Enginemen's Magazine*, August 15, 1917, vol. 63, pp. 11-12).

1928.—The Brotherhood of Locomotive Firemen and Enginemen did not give the Negro firemen or trainmen on the St. Louis-San Francisco Railway or its predecessor corporation's property any notice or opportunity to be heard at any stage of the negotiations which resulted in the contract of March 15, 1928, exhibit A to the complaint herein.

1940.—The Brotherhood of Locomotive Firemen and Enginemen March 28, 1940, served on 21 southeastern railroads a notice to change collective bargaining agreements in the following manner:

1. Only promotable men will be employed for service as locomotive firemen or for service as helpers on other than steam power.
2. When new runs or jobs are established in any service, only promotable firemen or helpers will be assigned to them.
3. When permanent vacancies occur on established runs or jobs in any service, only promotable firemen or helpers will be assigned to them.
4. It is understood that promotable firemen, or helpers, on other than steam power, are those who are in line for promotion under the present rules and practices to the position of locomotive engineer.

Negroes are not permitted to qualify for promotion to positions of locomotive engineer; hence were the class aimed at in the notice.

If this notice had been accepted by the carriers every Negro fireman would soon have been eliminated, because—

- (1) every time a "seasonal" train is put on or taken off, a vacancy occurs;
- (2) every time a starting time is changed half an hour or more a vacancy occurs;
- (3) every time a job is changed from 6 days to 7 days a week, or vice versa, a vacancy occurs.

1940.—The carriers refused (except the Frankfort and Cincinnati Railroad Co.) to agree to the brotherhood proposals in the notice of March 28, 1940; and the brotherhood invoked the services of the National Mediation Board and pressed for an agreement according to the terms of the notice.

1941.—The brotherhood through the services of the National Mediation Board obtained the compromise Southeastern Carriers' Conference agreement February 18, 1941, seriously curtailing the rights of Negro locomotive firemen:

"Agreement between the Southeastern Carriers' Conference Committee representing the Atlantic Coast Line Railway Co., Atlanta & West Point Railroad Co., and Western Railway of Alabama, Atlanta Joint Terminals, Central of Georgia Railway Co., Georgia Railroad, Jacksonville Terminal Co., Louisville & Nashville Railroad Co., Norfolk & Portsmouth Belt Line Railroad Co., Norfolk Southern Railroad Co., St. Louis-San Francisco Railway Co., Seaboard Air Line Railway Co., Southern Railway Co. (including State University Railroad Co. and Northern Alabama Railway Co.), The Cincinnati, New Orleans & Texas Pacific Railway Co., The Alabama Great Southern Railroad Co. (including Woodstock and Blocton Railway Co. and Belt Railway Co. of Chattanooga), New Orleans & Northeastern Railroad Co., New Orleans Terminal Co., Georgia Southern & Florida Railway Co., St. Johns River Terminal Co., Hurriman & Northeastern Railroad Co., Cincinnati, Burnside & Cumberland River Railway Co., Tennessee Central Railway Co. and the Brotherhood of Locomotive Firemen and Enginemen.

"(1) On each railroad party hereto the proportion of nonpromotable firemen, and helpers on other than steam power, shall not exceed 50 percent in each class of service established as such on each individual carrier. This agreement does not sanction the employment of nonpromotable men on any seniority district on which nonpromotable men are not now employed.

"(2) The above percentage shall be reached as follows:

"(a) Until such percentage is reached on any seniority district only promotable men will be hired.

"(b) Until such percentage is reached on any seniority district all new runs and all vacancies created by death, dismissal, resignation, or disqualification shall be filled by promotable men. A change in the starting time of the same run or job will not be considered as constituting a new run.

"(3) Except as provided in items (2) (a) and (2) (b) men now holding seniority as firemen, or helpers on other than steam power, shall be permitted to exercise seniority in accordance with their seniority and the rules of their respective schedules.

"(4) It is understood that promotable firemen, or helpers on other than steam power, are those who are in line for promotion under the present rules and practices to the position of locomotive engineer.

"(5) It is understood and agreed that on any road having, in the opinion of its B. of L. F. & E. committee, more favorable rules or conditions than above stipulated, such rules and conditions may at the option of such committee be retained in lieu of the above provisions.

"(6) * * *

"(7) It is expressly understood that in making this agreement representatives of the employees do not waive and are in no way prejudiced in the right to request agreements on the individual carriers here represented which will restrict the employment of helpers on other than steam power to promotable men; and it is agreed that this question is to be negotiated to a conclusion with the individual carriers.

"(8) * * *

This agreement put a ceiling on employment of Negro firemen. It provided a maximum but no minimum. On the St. Louis-San Francisco Railroad property where the four organizations had an agreement with the carrier March 14, 1928, that after said date no Negroes should be hired in train, engine, and yard service the B. L. F. & E. elected to retain the 1928 agreement as having terms more favorable to the white union firemen than the Southeastern 1941 agreement, and did not put the Southeastern agreement into effect.

On the Southern Railway property, the Seaboard Airline Railway property and other properties the B. L. F. & E. made supplemental agreements under the provisions of paragraph (7) of the Southeastern agreement practically prohibiting Negro firemen from serving on Diesel-engined locomotives.

1942: In 1942 when the Atlantic Coast Line Railway Co. wanted to hire Negro locomotive firemen in the war emergency because of labor shortage, the Brotherhood of Locomotive Firemen and Enginemen spread a strike ballot among the white union firemen on the Atlantic Coast Line encouraging them to strike before they would permit a Negro fireman to be hired in the war emergency.

1943: The President's Committee on Fair Employment Practice in 1943 cited carriers and the national railway labor unions because of discriminations against minority workers, especially Negroes and Mexican-Americans. The Fair Em-

ployment Practice Committee held a 4-day hearing on the charges. The unions ignored the charges, did not appear at the hearings, and ignored the cease-and-desist orders of the Fair Employment Practice Committee when issued.

1944: In 1944 due to labor shortage because of the war emergency the management of the St. Louis-San Francisco Railroad approached all four train and engine service organizations (Brotherhood of Locomotive Firemen & Enginemen, Brotherhood of Locomotive Engineers, Brotherhood of Railroad Trainmen, and Order of Railway Conductors) seeking their consent to the hiring of Negro locomotive firemen and brakemen because of the emergency. The Brotherhood of Locomotive Firemen & Enginemen and the other three organizations stated they were unalterably opposed to the hiring of any Negroes as firemen or brakemen.

1944.—In 1944 the United States Supreme Court in the case of *Steele v. Louisville & Nashville R. Co. et al.* (323 U. S. 192) (Dec. 18, 1944) decided the Brotherhood of Locomotive Firemen & Enginemen had violated the obligation on bargaining representatives of fair representation of minority workers' interests in negotiating the Southeastern Carriers' Conference agreement, February 18, 1941; and that the agreement was discriminatory. Nevertheless the brotherhood persisted in enforcing the agreement, until damages were awarded against it in the case of *Tunstall v. Brotherhood of Locomotive Firemen & Enginemen*, United States District Court, Eastern Division of Virginia, and the decision affirmed by the United States Court of Appeals, Fourth Circuit (163 F. 2d 280) and certiorari denied.

This *Tunstall* case was on the Norfolk Southern Railway. Even after final decision on that property, the brotherhood continued to enforce the Southeastern Carriers' Conference agreement on other properties, and separate suits have had to be filed on the Southern Railway, Atlantic Coast Line, and Seaboard Air Line Railroad to abrogate the agreement. These suits are still pending.

Mr. POWELL. We will now adjourn until 10 a. m. tomorrow morning. (Whereupon, at 4:30 p. m., the committee adjourned until 10 a. m. the following day, Wednesday, May 18, 1949.)

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

WEDNESDAY, MAY 18, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Adam C. Powell, Jr. (chairman) presiding.

Mr. POWELL. The committee will kindly come to order.

We have a letter from the Department of State, signed by Mr. Ernest A. Gross, the Assistant Secretary, which reads, in part, as follows:

I wish to state that the comment made by Mr. Acheson in 1940 as Acting Secretary of State and quoted in other reports on this legislation, accurately expresses the position of the State Department and can again be quoted.

The Department is frequently embarrassed by the apparent conflict between the principles of nondiscrimination and protection of human rights which we advocate in our international relations and instances of discrimination which occur in this country. Therefore, the Department hopes for continued and increased effectiveness of public and private efforts to do away with discriminations against minority groups, although it cannot comment on the merits of this specific domestic legislation.

(Mr. Acheson's comment, referred to in the above letter, is as follows:)

* * * the existence of discrimination against minority groups in this country has an adverse effect upon our relations with other countries. We are reminded over and over by some foreign newspapers and spokesmen that our treatment of various minorities leaves much to be desired. While sometimes these pronouncements are exaggerated and unjustified, they all too frequently point with accuracy to some form of discrimination because of race, creed, color, or national origin. Frequently we find it hard to formulate a satisfactory answer to our critics in other countries; the gap between the things we stand for in principle and the facts of a particular situation may be too wide to be bridged. At all spheres of suspicion and resentment in a country over the way a minority is being treated in the United States is a formidable obstacle to the development of mutual understanding and trust between the two countries. We will have better international relations when these reasons for suspicion and resentment have been removed.

I think that it is quite obvious * * * that the existence of discriminations against minority groups in the United States is a handicap in our relations with other countries. The Department of State, therefore, has good reason to hope for the continued and increased effectiveness of public and private efforts to do away with these discriminations.

I also have statements from Congressman Augustine B. Kelley, of the Twenty-seventh District of Pennsylvania, Congressman Christopher C. McGrath, of the Twenty-sixth District of New York, and

Congressman William T. Granahan, of the Second District of Pennsylvania, in support of the legislation.

Also a letter from the State of Connecticut Inter-racial Commission regretting they cannot be present today, and a statement supporting the legislation from the standpoint of the operation of the Connecticut Fair Employment Practices Act.

Without objection, they will be inserted in the record.

(The statements referred to above are as follows:)

STATEMENT OF HON. AUGUSTINE B. KELLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, It is my hope that legislation creating a Fair Employment Practices Commission will be enacted. The problem of discrimination is a serious one in this country. There are many minority groups which it affects, both racial and religious groups. It is not only the Negro who is interested in this problem; many others are equally concerned in it, for discrimination in employment has been practiced for many years in various parts of the country.

Every individual in this country should have the right and the opportunity to seek employment on the basis of his ability and should not be so prevented by an accident of birth. Therefore, I am in full accord with the efforts being made to wipe out discrimination toward any members of minority groups and to assure full justice for them.

STATEMENT OF HON. CHRISTOPHER C. McGRATH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, and members of the Committee on Education and Labor, I appear before your committee today not only as the Representative of the Twenty-sixth District of New York but also as an American who believes in fair play for all people.

Starting as a struggling Nation over a century and a half ago, inheriting the prejudices of the Old World, we have gradually eradicated most of them. The fears and hatreds of yesterday have in the main passed away, but there still remain prejudice and passions and fears that make some minority groups suffer. The right to life, liberty, and the pursuit of happiness does not mean the mere right to breathe air, to be relieved of the shackles of slavery. It goes further and deeper than that. The right to live carries with it the right of earning a livelihood in whatever field of endeavor one is fitted for. Hence, to say to a man or woman, "This job is barred to you solely because of your race or your religion or your color or your national origin or ancestry" is to deny to that man or woman his right to life and to happiness, because one cannot be free when economic prejudice persists.

When a competent person is denied employment because of this narrow-mindedness in reasoning, that individual suffers, but so does our general economy and, even more, so does our national security. The Federal Fair Employment Practice Act, now being considered as H. R. 4453, is a step in the right direction. America cannot and America must not tolerate discrimination in any degree. The adoption of this measure will do a great deal to end this un-American practice, but let us not rest solely upon legislative enactment. That in itself is not enough. In the heart of every American must be the deep, the genuine, and the sincere effort to do everything that will eliminate the spirit of hate. With that accomplished, we as individuals will be happier; we as a nation will be stronger, and then truly can we all say, "This is America, the land of freedom."

I strongly endorse all of the provisions of the so-called FEPC bill, and I respectfully urge that this committee report the bill favorably.

STATEMENT OF HON. WILLIAM T. GRANAHAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, in connection with the hearings of your subcommittee on the subject of the Fair Employment Practice Act, I should like to go on record as

strongly in favor of the enactment of a fair-employment-practice bill at the earliest possible moment.

I do not believe that even the opponents of this particular piece of legislation would deny that the conditions exist for which this is an attempted remedy. Prejudice and discrimination are facts. They are a part of the reality of life which we must face.

It is not contended for a moment that prejudice can be cured by legislation. That can be achieved only by education. But certain discriminatory practices which spring from prejudice can be curbed, and among them is the practice of discrimination in employment, that is, the refusal of a job to an individual not on the basis of his qualifications but because of his religion, race, or nationality background. The mere fact that these practices are common is no justification why they should be permitted to continue nor for the position that Congress can do nothing or should do nothing about it.

Under the Constitution, it is the duty of the Congress to act in furtherance of the purposes for which our Government was formed. These purposes include "to promote the general welfare" and "to secure the blessings of liberty to ourselves and our posterity."

The right to the pursuit of happiness by competing for a job on an equal basis with others is an essential part of our liberty. Equality of opportunity for all is one of our basic American tenets. One applicant for a job may have better qualifications than another by reason of experience, training, or education, and an employer who does not take these into account in making his decision would, of course, be foolish. But, on the other hand, it is equally short-sighted to disqualify from consideration a whole category of applicants, blacklist them from the start as undesirable, and remove them from the field of competition with others, regardless of their individual capabilities. To base such disqualification on a person's religion or race or where his parents came from is not only short-sighted but un-American.

Now there is nothing revolutionary or of wild-eyed radicalism about the fair-employment-practice bill now before Congress, although you may hear many of its opponents so classify it or claim it is Government interference with the right of free enterprise.

Actually, it is merely a proposal to apply one of our long established principles of government; namely, to safeguard by specific legislation one of the fundamental rights embodied in the Constitution.

The bill would establish as a part of our Federal law this protective legislation for equality of opportunity that already has been written into the statutes for six States—New York, New Jersey, Indiana, Wisconsin, Massachusetts, and Connecticut. I am sorry that Pennsylvania is not on that list, too, but the State Senate at the last session of the legislature saw fit to permit the FEPC bill there to be bottled up in committee.

The bill now before the House subcommittee relies strongly on the elements of education and moral suasion to bring about a change in unfair employment practices. The Commission of five members appointed by the President which would be created under this bill is specifically directed to try to achieve a remedy by informal methods of conference, conciliation, and persuasion. It is only in the event that such a method fails to bring about the desired improvement in the specific case brought before the Commission on a complaint that punitive legal action is resorted to.

And even such action by the Commission is subject to an appeal to the courts. In fact, the courts are given the power in entering a decree to enforce the Commission's order as it was rendered, modify it, or set it aside in whole or in part.

This bill approaches the whole problem in a spirit of moderation and common sense, and there is no basis for the statements of its opponents to the effect that a tyrannical bureaucracy is being set up which could tell an employer whom he must hire.

The experience in every State where commissions are operating has been that there is very little need to resort to exercise of the full powers of the commission and the courts. And I believe the same thing is true of the Philadelphia Fair Employment Commission, which was created a little more than a year ago.

The question is frequently raised as to why, since the activity of the States and municipalities in this direction is expanding, it should be necessary to have a Federal law. It is my feeling that this is a national problem and requires treatment on that basis. Prejudice and bigotry, and the employment discriminations which are a form of expression of these evils, are not confined within State lines.

The need for Congress to enact this bill is twofold: There is an economic need and a moral need. First, the practices complained of deprive our national economy of the productive value of the work of individuals who are denied an opportunity to make full use of their talents, their education, and their training. These are vitally needed in our economy to carry out America's program of full employment and full production.

Second, we must make effective in everyday life at home the principles of democracy which we are helping to spread abroad in other countries of the world.

I do not maintain for a moment that this law we seek would be a cure-all or panacea, or that if it is enacted that all discrimination will end, but the mere expression by the Federal Government of its abhorrence of these evil practices, written into the body of its statutes, will have a tremendous preventive and educational effect. I will encourage and hasten action by other States where similar bills are under consideration. Moreover, a national commission will be of great help to State commissions in setting standards of procedure and coordinating policies in addition to acting administratively in its own sphere.

It will be a start into enactment into law of the great program recommended by the President's Commission on Civil Rights and which the President has repeatedly urged upon the Congress since he first took office.

STATEMENT OF THE INTER-RACIAL COMMISSION, STATE OF CONNECTICUT, IN SUPPORT OF H. R. 4453

The Connecticut Fair Employment Practices Act which has the same purpose and the same basic procedure as that set forth in H. R. 4453 was enacted May 14, 1947, or approximately 2 years ago. It is administered by the Connecticut Inter-racial Commission which is a budgeted State agency established by statute in 1945.

During this 2-year period approximately 115 formal complaints have been filed with or by the commission alleging unfair employment practices. In addition nearly as many informal complaints alleging discrimination in employment have also been investigated.

Of the 100 formal complaints dismissed as of this writing 78 were filed by individuals and 22 by the commission. The latter were issued against discriminatory regulations practices or policies which were in conflict with the law in that they excluded or discriminated against a racial, religious, or national group in matters involving employment although not directed against any specific individual.

Of the 100 complaints dismissed in 80 percent of these, the commission found evidence of discriminatory practices prohibited by the law and was able to effect a satisfactory adjustment. This meant that either the complainant was employed or offered employment or that in the event there was no individual complainant that a discriminatory practice was eliminated.

Complaints received may be grouped roughly into three categories: denial of restriction in or separation from employment because of race, color, creed, national origin, or ancestry.

The most common allegation has been refusal to employ on account of color or race followed by restrictions in privileges and conditions of employment with relatively few complaints being filed because of alleged discriminatory discharges or lay-offs.

Although unemployment compensation claims in Connecticut have increased approximately 50,000 over last year, few complaints have been filed alleging discriminatory separations. On the basis of these figures it is evident that getting employers to consider minority workers for employment is the paramount problem and that once they are employed attitudes change and the prejudices and fears against them as employees seem to dissipate.

The commission realizes that the law has been successful largely through the cooperation of employers, labor unions, and other agencies. Prior to the passage of the law many large employers were hesitant to alter their employment policies to admit minority workers not because they were personally opposed to such action but because they were apprehensive of the reaction of their employees and their customers. With the enactment of the law, many of these same employers have commenced to employ minority workers not because of complaints filed

against them or because of any persuasion or coercion on the part of the commission but rather because they felt that the law gave them an official support hitherto lacking.

For example, in Hartford many Negro office workers were employed by insurance companies as contrasted with the former pattern of employing Negroes only in maintenance, custodial, and service capacities. The Southern New England Telephone Co. employed its first Negro telephone operators in Connecticut 1 year ago and also has several clerical workers in their New Haven office.

This degree of voluntary compliance has been one of the most significant results of the Fair Employment Practices Act.

To date all complaints in which discrimination was evident have been settled without the commission having to hold hearings. This is also true in the other States having fair employment laws. Although not invoked the commission nevertheless believes that this power to hold public hearings has been responsible for the willingness of many respondents to accept the commission's proposals for adjusting a complaint.

No formal hearings have been held by the commission as they have not been found necessary in settling complaints. No court actions have been brought by or against the commission under the law.

When the Connecticut Fair Employment Practice Act was passed its opponents predicted dire happenings such as walkouts, demonstrations, or loss of patronage because of the introduction of minority workers into industrial mercantile service or other establishments. None of these predictions have occurred, and on the contrary, in several instances where the adjustment of a complaint has resulted in the employment of a minority worker for the first time additional workers from these groups have subsequently been employed.

In settling complaints where discrimination is present the commission not only attempts to obtain a satisfactory adjustment for the complainant but, what is more important, tries to effect the adjustment in a manner that will prevent further discrimination by changing the employer's attitude and policy toward minority workers. The commission, therefore, has consistently endeavored to gain acceptance for the law through education rather than through prosecution or pressure.

The fact that there has been evidence of discrimination in more than 60 percent of the complaints filed indicates the necessity for the law. The commission believes it has proved an effective implement in opening up employment opportunities for minority groups and that it can be administered in a manner that will assure the continuance and increase of these opportunities by voluntary efforts on the part of the employers.

The statute establishing the inter-racial commission in 1943 stated that the commission shall investigate the possibilities of affording equal opportunity of profitable employment to all persons. To implement this the commission carried on an educational program among employers, labor unions, civic, and church groups and the public to remove employment barriers and prejudices against minority workers, with the enactment of the Fair Employment Practice Act in 1947, the commission's powers were augmented and among those specified in the law was that of fostering through education and community effort or otherwise good will among the groups and elements of the population of the State. Consequently the commission has not diminished its educational efforts but has regarded the law as an effective educational tool for integrating minority workers into employment.

The commission believes that this policy has been responsible for the acceptance of minority workers in employment in Connecticut in areas which hitherto were closed to them and also has enabled them to satisfactorily adjust to date all complaints in which they felt discrimination in employment was present without recourse to the hearing procedure.

Mr. POWELL. Our first witness this morning is the Senator from Illinois, Paul H. Douglas.

TESTIMONY OF HON. PAUL H. DOUGLAS, A UNITED STATES SENATOR FROM THE STATE OF ILLINOIS

Senator DOUGLAS. Mr. Chairman and members of the committee, I want to thank the committee for the courtesy which they have extended to me in giving me the privilege of testifying.

I take it that one of the legal and social difficulties in the field of civil rights lies in the fact that our early constitutional guaranties of freedom were designed to protect men against discriminatory action by governments and not against such action by fellow citizens.

Under feudalism, power was concentrated in the sovereign or his deputies, and it was against the arbitrary exercise of power of King John that the English barons rebelled and won the rights incorporated in the Magna Carta. Having suffered for nearly 60 years at the hands of the Stuarts, the English merchants deposed James II in 1688 and the next year won from William and Mary legal guaranties to protect the rights of free men from being violated by the Crown.

Later it was the abuse of this power by the British Government which in part caused the American Revolution. It was small wonder, therefore, that the common man in our country was fearful that the new government, even under such popular control as was provided, might become an agency to oppress the individual. Men were fearful either that an active minority might come to control the National Government and would then use it to become tyrants over the more passive majority, or that an inflamed majority would similarly oppress the members of minority groups.

As a result the Bill of Rights as fashioned by George Mason and James Madison and seasoned with the philosophy of Thomas Jefferson was adopted by the States as the first 10 amendments to the Constitution. These amendments were designed to protect the individual against the National Government so that the latter would neither impose a state religion nor forbid men from following their own faith; that it would not prevent them from assembling peacefully; petitioning for a redress of grievances, nor from having the freedom to speak their mind and to express their thoughts and feelings in print.

The National Government was not to take away from the people nor to quarter troops in their houses without their consent, and men were to be secure in their houses from unreasonable searches and seizures and not to be arrested without a warrant. They were not to be tried for crimes unless first indicted by a grand jury and were to have the right of speedy trial; to know the charges against them; to be confronted by witnesses who could be cross-examined; to be represented by counsel, to have the right of a jury trial, and to be protected against cruel and unusual punishment. Property could not be taken without just compensation, nor could the Federal Government deprive any person of life, liberty, or property without due process of law.

These constitutional guaranties embodied in the National Constitution were primarily designed to protect the individual against the tyranny of the National Government, but so far as the protections of a fair trial were concerned, were also to be protection against the acts of agents of the State governments as well.

The provisions of the Bill of Rights have, moreover, been largely enacted into the constitutions of the separate States so that these legal guaranties are now virtually universal.

All this is extremely valuable. While the chief protection against a police state of either the Fascist or Communist type lies in the human spirit rather than in any words on parchment, the very existence of such provisions makes our ideals more tangible and

firmly held; gives us a point of reference by which we may judge our conduct and helps to snuff out in their early stages tendencies toward tyranny on the part of government which might otherwise develop.

But these constitutional guaranties do not in themselves protect the individual against the actions of other powerful individuals to deprive him of certain essential freedoms and rights. To the founding fathers this did not seem necessary. The members of the white population were overwhelmingly farmers, and except in the coastal regions of the South and the Hudson Valley, these men were on terms of substantial equality with each other. Secure on their farms, they could, like John Taylor, of Carolina, and Nathaniel Macon, adopt an independent attitude, and if driven from public life, could make an honest and comfortable living from the soil. Most white men could, therefore, stand on their own feet and did not need protection against the powerful.

There would, however, have been a natural reluctance on the part of the founding fathers to lay down rules for the regulation of social and business intercourse. We all recognize the right of men in their social life to choose their own friends and associates. No sensible person would propose that the State should prescribe the persons whom we may or may not invite into our homes, or admit to our clubs or churches. These are matters for men and women to decide for themselves. It is, of course, the hope of all decent people that these choices may be made in a friendly spirit and with refined and discriminating judgment so that the mighty forces of social emulation may operate to raise the level of character and conduct. But if men makes choices of which we disapprove, then few would think of trying to implement our rights by regulatory action on the part of the Government, for, as it is colloquially said, "that is their affair."

Until recently the average man probably regarded private employment and the furnishing of educational, health, and recreational facilities by private bodies as being substantially similar in character to these social choices. It was thought to be an employer's prerogative to hire and fire whom he wished. It was his business and he was free to exercise his choice. If he disliked red-headed men that was his privilege. Similarly, if he did not want union advocates, Negroes, Jews, or Baptists in his employ, that was also his affair.

Privately financed schools and colleges, moreover, were and still are privileged to restrict attendance to or favor admissions from given racial, religious, or social groups, and to discriminate, albeit somewhat secretly and shamefully, against others.

Similarly, while private hospitals did not appreciably discriminate in admitting white patients, they did discriminate against Negroes, and in the selection of a medical staff, Negroes tended to be barred and Jews frequently found it difficult to gain a place. Similarly, in housing, men frequently sought to protect themselves against neighbors whom they believed would be obnoxious by entering into covenants not to sell or rent to members of a given racial and religious group, notably Negroes and to a lesser but real extent Jews, and the same provisions were applied by hotels and restaurants, and in certain cases, by theaters.

The injustices which such an attitude could create was first thrown into sharp focus in the field of labor relations. Beginning with Chief Justice Shaw's decision in 1842 in the celebrated case of *Commonwealth v. Hunt*, it came to be a legal right of workmen to join unions and to seek through collective action, if unaccompanied by violence or coercion, to improve their wages, hours of work, and working conditions.

Since workers were free to seek these ends by these methods, they could not be punished by the State for making such efforts. But there was no reciprocal obligation upon the employers to allow them to exercise these rights in an unmolested fashion. On the contrary, the employer was free to refuse to hire union men and to discharge or discriminate against them once they were hired.

Since with the growth of large-scale industry, employment became increasingly concentrated in a minor portion of large firms, and since there was generally a considerable volume of unemployment, the result was that while the workers were legally free to join with and be active in unions, they were not, in a very large proportion of cases, economically or institutionally free to do so. In all too many cases, they could exercise their freedom only at the expense of losing their jobs. For millions this was too great a price to pay and this fact was largely, although, of course, not wholly, responsible for the low percentage of organization in American industry prior to 1935.

In that year an important further step was taken. By the National Labor Relations, or Wagner, Act, it was made an unfair labor practice for an employer to refuse to hire, or for him to discharge or discriminate against, a worker because he was a member of a union or active in its affairs. Nor, of course, could the employer threaten the workers with such a fate as a means of deterring them from organizing or being active. The legal right of the workers to organize was not to be rendered ineffective by allowing the employer to punish them for doing what was perfectly legal and in no sense morally reprehensible.

An employer who did use such tactics could be enjoined from continuing them and punished if he did so, and workers damaged by such action were to be reinstated in full possession of their former rights and indemnified for any financial loss which they might have suffered in the meantime. This helped to transform what was a somewhat empty legal right into an effective right and helped to give the lie to the bitter gibe that the laws in their majestic equality forbade the rich as well as the poor from sleeping under bridges and begging in the streets for bread.

Now, it may well be that certain abuses have developed under the Wagner Act and that some unions have not used their freedom to the best advantages of the public or of society. But while the opposition on the part of the employers to this feature of the act was at first bitter on the ground that it limited their freedom to discriminate in hiring and firing, I believe that by now this feeling has largely subsided.

If I read the temper of the public correctly, there is an almost universal feeling that this aspect of the law is fundamentally correct, namely that employers should be denied the power to discriminate against workmen, who are worthy in other respects, merely because they decide to join or be active in a union.

The adoption of such a principle inevitably raised in people's minds further parallels and threw light on additional paradoxes. If it was wrong to deny a union man a job and throw him into the ranks of the unemployed, was it right similarly to discriminate against him because he was a Negro or a Jew? No one can choose his ancestors. There are 14,000,000 Negroes in our Nation, and probably somewhere between 5 and 6 million Jews. Are they to be shut out from the decent jobs and be the last to be hired and the first to be fired? No one can deny that job discrimination against Negroes tends to be the rule rather than the exception, and that discrimination against Jews is pervasive. In former times our Catholic friends were also probably quite widely discriminated against, but fortunately this has largely, although not wholly, disappeared. But in the Southwest, Mexicans and Indians suffer many of the disabilities which Negroes and Jews experience elsewhere.

All this is in violation of one of the fundamental principles of our democracy, namely, that men are to be judged according to their own merits and acts and to sink or swim according to their performances and not because of accidental membership in a race or choice of a religious affiliation. It offends the American sense of fair play when men worthy in other respects are denied the chance to exercise their talents because of prior prejudice against their group.

This emotional feeling for fair play is also rooted in very strong economic and social considerations. The national income will be increased by having men work at the jobs for which they are best fitted and if the able members of the unskilled labor force can be put to work on more skilled tasks.

Furthermore, if a man feels that no matter how hard he works nor how much skill he acquires, he will still be kept out of the better jobs, he is then likely to lose all incentive to improve himself and become a slovenly and careless worker. If that is how society persists in treating him, he will ask himself, "Why should I go through the sweat and agony of trying to improve myself?" As a result we do not get from our Negro and Mexican populations their full potential contribution to increase efficiency and national production and the amount which we all can share is correspondingly reduced. It is not their fault that this occurs.

Secondly, the closing of the doors in legitimate business drives many of those who are thus disbarred, into various antisocial or dubious occupations. No one can live in a modern city without being aware of the importance of what is loosely called the racket. Gambling, vice, the purveying of excessive amounts of liquor, shady forms of amusement, occupations characterized by sharp practices, seem at times to be ubiquitous.

However, there is this much to be said about the racket; it does not draw the racial or religious lines as sharply as do the so-called legitimate occupations. Men and women who are scorned and excluded elsewhere can find sanctuary here. It is small wonder, therefore, if many men and women who basically want to lead decent, productive, and useful lives feel forced to enter the racket which will not only give them bread but frequently cake as well, and within which they can acquire some status and some sense of belonging.

Society loses both economically and morally by these tendencies. It is certainly the cruelest of ironies when the society which has ex-

cluded given groups from socially productive jobs then adduces the fact that so many congregate in the antisocial or morally fringe occupations, as proof of the inferiority of these groups and as grounds for their continued exclusion from the jobs which would make them useful members of society.

There is one further aspect of this situation which needs to be commented upon. It was Bill Nye, I believe, who said: "No man will shoulder a gun in defense of a boarding house." How can we expect men who are treated as second-class citizens and who are denied jobs and equal opportunities to establish homes, to bring up families decently, and to have a fair chance at education, health, and recreation to have their hearts overflow with love and devotion to the country where all such things take place?

America has come through one great period of stress with great credit, but we are moving into another period in which the pressure will at least be equal and possibly may be greater. One of the methods by which fascism sought to impose the police state upon the relatively free nations of the world was by stirring up the racial and religious majorities against the minorities and using the latter as scapegoats to justify the suppression of civil liberties.

The Communists have more or less despaired of breaking the ranks of the majority on racial or religious grounds but they are trying to stir up and inflame the minorities against the so-called majority.

They represent themselves to these minorities as their protectors who will abolish discrimination and who will treat them as equals. To do this, they will play up and exaggerate every grievance, and they are now doing so. I am not afraid that there will be a successful Communist revolution in this country. The roots of our democracy are too deep for that. But there is ground to fear that if we should become involved in a war with Russia, there may be sufficient dissatisfaction in certain quarters to weaken and, in certain places, to hamper our resistance. It is a great testimonial to the loyalty and wisdom of our minorities that there has been so little of this disaffection in their ranks, despite their grievances.

I am personally quite indignant at the hypocritical tactics of the Communists. They advance their arguments in the name of democracy and ever more democracy, but if they were ever to come to power—which I feel quite sure they won't—they would destroy virtually all of the civil liberties which we have built up in the last hundred years. Judging from their behavior in the countries which they dominate, all protections of the individual would be thrown aside. The secret police could arrest them without warrant and hold them without bail. Men could be sentenced to outright death or be worked to death without trial. No opposition parties would be tolerated. The press and the churches would be controlled. An icecap of terrorism would settle over the earth. All true liberals should, therefore, seek to prevent these totalitarians from climbing into the driver's seat.

One way of checking these groups is to take the issues away from them. If those who truly believe in democracy refuse to recognize the abuses which do exist and do nothing to correct them, then the extreme left wing will be left in possession of the field and can pose as the sole protector of the rights of minorities.

They will thus be able to win greater support for their group and ultimately to weaken and undermine the basic freedoms of speech, press, assemblages, and political action which generally prevail throughout the country. I do not believe that we can afford to let these issues go by default. It is both just and prudent to help open the doors of opportunity and those who are not greatly moved by the former consideration should at least be influenced by the latter.

Ultimately, the best protection in such matters is an informed and humane public opinion. Without this, laws are not effective and with it laws need not be often used. Does this, however, remove the need for legislation? The difficulty is that at the speed with which the world is moving, we do not have as much time as we thought we had two or three decades ago. Secondly, there is always a hard core of opposition which, if it is left free, can infect the community. Thus the Nazis were few in the early stages, but by insistence they spread antisemitism and gave to many the disease which they did not earlier possess.

It seems to me, therefore, that in order to promote greater equality of opportunity and true national unity, that there is need for some legislation intelligently and sympathetically administered. It is better that this be done by the States wherever possible, than by the Federal Government, since the States are closer to the problem and can take action more effectively.

While we need a strong National Government both for purposes of national defense and to regulate Nation-wide markets, it is also true that it is undesirable for the people to run to their National Government to solve all their problems without trying to deal with them on the State level. It is, therefore, encouraging that New York, New Jersey, Connecticut, and Massachusetts, and this year Washington, Oregon, New Mexico, and Rhode Island should have passed fair employment practices laws. This makes a total of eight States and it is probable that within the next year or so, an additional number of States will act similarly.

This does not, however, do away with the necessity for similar action by the Federal Government. There is need for Federal action because the problem is in part a national one. Job discrimination against Negroes is directly weakening national unity and is giving to the Communist opponents of our democracy a propaganda weapon which they are using amongst the darker skinned peoples of the world to try to turn them against us. We need to purge ourselves of these abuses as rapidly as possible, first because it is just and right that we do so, but also because it is highly important to gain united support at home and to gain the aid of the hundreds of millions of yellow, brown, and black peoples in Asia and Africa whom we want on our side.

It will be virtually impossible to try to tell these peoples that we as a Nation are prevented from acting because of the niceties of our Federal system. I would suggest, therefore, that we act under the commerce clause, as we did in the case of the Wagner Act.

We should, of course, be careful to work out cooperative relationships between the Federal Government and the States, and where there are satisfactory State laws under effective administration, to let them have primary jurisdiction. But national legislation can fill in the gaps and guarantee at least minimum standards.

There are perhaps a few comments which it may be proper for an outsider to make about such laws. Much depends on their administration. Many decent employers are opposed to such legislation because of their fear that it will fall into the hands of firebrands and marplots who will use the laws to harass and intimidate them for no good cause.

We must recognize the fact that it is easy for a man who fails to advance as he should like, to claim that he is being discriminated against because he belongs to a certain group. If the administration of such acts is conducted by intemperate men, minor grievances can be played up and business pilloried for small infractions. It is probable that under these conditions more harm than good would be done. And yet, if wisely, temperately, and humanely administered, it seems that much good may be effected. All the evidence which I have been able to gather about the first State to pass such an act, New York, seems to show that with careful and quiet administrators, many concerns have opened employment to Negroes, Jews, and others who were formerly barred.

And all this has been done, as I understand it, without a single formal sentence having been passed. And yet as the first chairman of the New York committee, Henry C. Turner, observed, the fact that there were compulsory powers in the closet helped the commission to get changes through the conciliatory process of conferences and negotiations which would have been impossible had the commission been stripped of all weapons of enforcement.

As a matter of fact, there are good reasons why perhaps the majority of employers would favor such a measure. It is to their economic interest to get the best employees they can find, and whether these are Anglo-Saxons, Latins, Negroes, or Jews, Baptists, Methodists, or Catholics, it is either secondary or completely beside the point. While it is true that some employers may be inhibited by their own prejudices, the majority are probably more deterred by their fears as to how the workers will take it if members of somewhat unpopular groups are hired, or in industries which deal with the public, as to whether the customers will object and go elsewhere. Many employers who would like to move feel their hands are tied and they cannot afford to take the chance of stirring up trouble. The enactment of a fair employment practices act invokes a higher authority and will establish a more general practice. They can then tell the workers that it is not a unique rule of their plant to hire new workers, but that it is a requirement of the law and since it is required, it is up to all hands to make the best of it.

In this way the law will help the employers to break the bonds by which they feel themselves bound and will enable them to do that which in their hearts many have always wanted to do and have known is right.

I have seen a number of cases where such new racial elements have been introduced into the working force and with proper handling there is no reason why matters should not generally work out well. This is notably the case with the International Harvester Co., which, by its clear managerial directions and careful supervisors' training, has done splendid work. The average man of all races is a decent fellow and as men and women come to know each other and to work together, a great many of the old prejudices gradually dissolve.

While I am dealing with the question of the attitude of the workers, I think I should say that while many of the unions have done an excellent job in breaking down prejudices and in getting workers of different nationality groups to cooperate together, there are some others which have not done well. It is certainly inconsistent for groups of workers who are protected by law in their right to join a union to refuse to admit men of a given racial group into their union and to deprive them of job opportunities. I am glad that the great, central organizations of labor are giving their support to this legislation to eliminate such discrimination.

As long as there are jobs for everyone, then the pressure of prejudice is abated. When a depression comes, however, and there is unemployment, many men will tend to seek security for themselves by pushing others off the raft. Unemployed whites will resent seeing Negroes have jobs, and non-Jews who have lost their positions or their money will resent seeing Jews prosper. This is one of the many reasons why it is highly important that we should continue to have full employment. Such a condition is the best preventive of race prejudice.

If we look only at the world about us, there is much to discourage us. We do fall short of our professed ideals and we are failing in many directions. It is well to be reminded of these failures and to press on. But it is well, also, to look back in time and recognize the great progress which has been made.

Eighty-five years ago, the vast majority of Negroes were slaves and, in the words of the Supreme Court, had no rights which a white man need respect. We have come a long way since then. Three-quarters of a century ago, there were few Jews in this country, and hence virtually no Jewish problem. Today there are millions and the problems of adjusting different cultures is never an easy one.

I am convinced that never was there as much informed and active good will as there is today. We of this and the succeeding generations have the chance to nobly win or meanly lose the possibility of making our Nation a democratic association of men and women, who, though differing in racial origins and cultures, are nevertheless bound to each other by ties of mutual dependence and fellowship.

In that faith, we should all push on. I ask, therefore, for the sympathetic consideration of the legislation which is now before Congress and express my hope that we may be able to pass an adequate law against discrimination in employment at this session.

I can assure you that if you gentlemen have the House act, although I am aware of the difficulties on our side of the Capitol, that you will have many allies on our side, who will try to put these principles into being.

I will be very glad to try to answer any questions that you may have.

Mr. POWELL. I want to thank you, Senator, for a very excellent presentation. There is one thing you did not mention, or I did not get it. Maybe I can phrase it in the form of a question. You covered the fair employment practices from the employers' point of view and then as regards the trade-unions.

Senator DOUGLAS. Yes.

Mr. POWELL. What about Government agencies?

Senator DOUGLAS. I quite agree with you. I thought President Truman's Executive order was clearing up those difficulties, but I quite agree with you, of course.

Mr. POWELL. It was Dr. Jernagin, the former president of the Fraternal Council of Negro Churches, which represents 6,000,000 Negroes, who charged that under the Secretary of the Treasury, Mr. Snyder, in the Bureau of Engraving, there was frank discrimination from hiring right on through. I requested him to present the committee with the facts, and this morning he has filed cases, with names and classifications, and so forth, in the Bureau.

We have asked Mr. Snyder to come tomorrow at 2 o'clock and he said he would be here, or Under Secretary Foley, and with them will come the Director of the Bureau of Engraving. The reason for this is in preparing our committee report we want to put in there, regardless of where the chips may fall, just where there is need for this.

The President has issued the order and here, on his right hand, in the Department of the Treasury, according to what we know so far, there is practiced discrimination. Do you think we should go into this question?

Senator DOUGLAS. Oh, yes; by all means. I served in the Marine Corps during the war and it was common experience to have directives which came from the top lose their effectiveness as they moved toward the bottom. I agree with you. I am not acquainted with the facts in this case, but if they are as alleged they should be corrected.

Mr. POWELL. Any questions, Mr. Burke?

Mr. BURKE. I have no questions.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. I have no questions.

Mr. POWELL. Thank you, Senator.

I would like the members of the New York State Commission Against Discrimination to come forward and introduce themselves for the purpose of our record.

TESTIMONY OF E. W. EDWARDS, ACTING CHAIRMAN, AND NICHOLAS H. PINTO, COMMISSIONER, ACCOMPANIED BY HENRY SPITZ, GENERAL COUNSEL, NEW YORK STATE COMMISSION AGAINST DISCRIMINATION

Mr. POWELL. Gentlemen, will you introduce yourselves for the benefit of the record and the benefit of the committee?

Mr. PINTO. I would like to introduce the acting chairman of the commission, Mr. Edward W. Edwards. The general counsel, Mr. Henry Spitz, and myself, Nicholas H. Pinto, as one of the commissioners.

Mr. POWELL. Thank you. You may proceed.

Mr. EDWARDS. Congressman, we came here today in response to a written request by your chairman. We have sent a statement in written form, which was intended to be informative and which sets forth the essential features of the operation of the New York law against discrimination. We have filed copies of the law, and the rules governing the practice and procedure of the State commission.

There is also appended to the original copy a mimeographed copy

of the commission's annual report to the Governor and to the members of the New York State Legislature.

The New York State law against discrimination was enacted on March 15, 1945, and went into effect July 1, 1945. It is administered by a commission of five appointed by the Governor with the advice and consent of the senate. The commission, one of whose members is designated as chairman by the Governor, has two major functions:

(1) To eliminate and prevent discrimination in employment, based on race, creed, color, or national origin.

(2) To plan and develop a positive educational program in all phases of human relations, and to execute this program not only on a State-wide basis through the use of such media as newspapers, radio, television, and the services of schools, churches, employer, labor, and other civic groups, but also on a local basis through local advisory councils made up of volunteer citizens serving without pay, appointed by the commission.

Underlying both of these functions are the findings of the State legislature, specifically set forth in article 125 of the law in the following language:

and the legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color, or national origin, are a matter of State concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundations of a free democratic state.

The foregoing purposes are linked with specific recognition under the law that the opportunity for employment without discrimination is a civil right. To protect this right, the commission has the power and duty to receive, investigate, and pass upon complaints alleging discrimination in employment because of race, creed, color, or national origin. The law declares it to be an unlawful employment practice:

1. For an employer, because of the race, creed, color, or national origin of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

2. For a labor organization, because of the race, creed, color, or national origin of an individual, to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.

3. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, or national origin, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

4. For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under this article or because he has filed a complaint, testified or assisted in any proceeding under this article.

5. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this article, or to attempt to do so.

If the commissioner, who is assigned by the chairman to investigate a specific verified complaint, finds that probable cause exists to credit allegations of the complaint, he is under statutory mandate to endeavor to eliminate the unlawful employment practice complained of by the process of conference, conciliation, and persuasion.

The law further provides that neither the Commission nor its staff shall disclose what transpired during the conciliation process. If, in a case where probable cause has been found, the conciliatory efforts of the investigating commissioner fail, the case shall then be noticed for a formal hearing before three members of the commission, not including the investigating commissioner.

If this formal hearing results in a finding that the respondent has violated the law, the commission shall issue an order requiring the respondent to cease and desist from such unlawful employment practices, and to

take such affirmative action, including (but not limited to) hiring, reinstatement, or up-grading of employees, with or without back pay, or restoration to membership in any respondent labor organization, as, in the judgment of the commission, will effectuate the purposes of this article, and including a requirement for report of the manner of compliance.

In close to 4 years of commission operation, all verified complaints have been settled through the conciliation method without recourse to a formal hearing. This experience bears out the predictions of the framers of the law, and of the New York State Temporary Commission Against Discrimination, which in its January 29, 1945, report to the Governor and legislature stated:

That the great majority of complaints can and will be satisfactorily settled on the threshold by conference, conciliation, and persuasion, and that they should be so settled.

The conciliation feature of the law recognizes that to achieve enduring results in the elimination of discrimination on the basis of race, creed, color, or national origin, it is necessary to create an area of cooperation, without which there could be no ultimate success. Discrimination because of race and color, and to a lesser degree because of national origin, has had the sanction of time and custom, and sometimes of statutory law in many areas of American life. The framers of the law were cognizant of this fact. The section of the law providing for conference, conciliation, and persuasion attests to it. The sanctions contained in the statute were to be invoked when in the opinion of the investigating commissioner this process had failed. In fact, the sanctions were designed not solely as punitive measures, but as supports for the conciliation process.

Complaints filed with the commission embrace occupational categories in all the major divisions of industry: Communications, transportation, public utilities, banking and insurance, building construction, retail dry goods, pharmaceuticals, electronics, baking, hotels and restaurants, labor organizations, and employment agencies.

The policies adopted by the commission as expressed in its statutory interpretations and rulings, and in the processing of complaints have been developed in such a way as to secure maximum compliance with the provisions of the law, and at the same time to insure the permanence of compliance on the part of the three elements of industry and commerce which the law affects: Employers, employment agencies, and labor organizations. It would be of little avail if compulsive action on the basis of individual complaints resulted in temporary compliance which could only be maintained by a policy operation that in the end would assume formidable proportions.

In addition to using the verified complaint process, the commission also employs such auxiliary regulatory devices as commission-initiated investigations and industry-wide educational conferences.

The commission follows the same general procedure with "commission-initiated investigations" as it does with "verified complaints." The investigatory, and the conference and conciliation processes are carried out by an investigating commissioner, with the assistance of field staff. From the point of view of jurisdiction, the commission classifies such investigations as being within its "nonenforcement jurisdiction." This classification denotes that the investigation is not based on a verified complaint, and accordingly, the investigating commissioner could not order a formal hearing if his efforts toward conciliation were ineffectual.

As a guide to determining when an investigation shall be initiated, the Commission has established the policy that it may institute an investigation whenever it receives information supported by some evidence of discrimination based on race, creed, color, or national origin. The measure of evidence need not be the quantum necessary to support a *prima facie* case. The commission will not, however, proceed with an investigation based merely on hearsay or gossip.

In addition to processing verified complaints and conducting commission investigations, the commission has developed a comprehensive conference program with large employers, labor unions, and employment agencies. Since one of the major purposes of the law is to prevent discrimination, these voluntary conferences have been of the utmost importance. Based not upon allegations of discriminatory acts, but rather upon a genuine desire on the part of employers and others to cooperate with the commission in an exploration of ways and means to effectuate the purposes of the law, these conferences held in all parts of the State have produced far-reaching results. Meetings with large companies, employing thousands of persons in New York State, reveal that integration of minority groups into the employment pattern of the State is steadily progressing. Not only have new avenues of employment been opened to persons hitherto excluded from certain occupational and industrial areas, but through intelligent personnel administration, the difficulties envisaged, and sometimes encountered, when new groups are introduced for the first time have been, on the whole, eliminated.

The passage of the New York law against discrimination made possible the immediate abandonment of discrimination in employment based on race, creed, color, or national origin by those employers who had long desired to remove such limitations in employment, but because of certain apprehensions and fears were reluctant, in the absence of an explicit public policy, to take affirmative steps.

The regulatory and educational programs of the Commission have brought about significant progress in employment opportunities in the State of New York. This has been accomplished without harassing or disrupting business, or forcing any employer or industry to move out of the State. The miscellany of fears of employee tension, of "consumer resistance" to the introduction of nonwhite sales personnel in department stores and other service establishments and of mass walk-outs of employees protesting such employment, has not occurred. The dire prediction voiced by one-time opponents of the law have not come true. On the contrary, there has been a State-

wide acceptance of the philosophy of the law, and cooperation by management, labor, governmental agencies, and other affected groups in implementing the law's provisions. Since the enactment of the law, Negro girls, for example, are now employed in the telephone exchanges as operators or clerks, or both, in all the cities in the metropolitan area and in 11 cities up-state. Labor unions have removed discriminatory membership clauses from their constitutions and by-laws. The community is aware of the changing picture in the department-store field as evidenced by the increasing number of Negroes employed in clerical capacities, in administrative and executive offices, and on the selling staffs.

By far the greatest number of complaints are filed charging discrimination by reason of race and color, and in some measure the gauge of commission progress may be determined by the extent of opportunities for employment, hitherto denied, which has been created for this group. In no lesser degree, however, has discrimination on the basis of religion and nationality declined wherever it has been challenged by commission action, and it is challenged whenever and wherever information of discrimination is transmitted to the commission by verified complaint or by information received either orally or in writing.

The educational work of the commission has two purposes:

(1) To convey a knowledge and understanding of the law against discrimination to all inhabitants of the State; and

(2) To eliminate from the State all prejudice based on race, creed, color, or national origin.

To accomplish these ends, the commission maintains a division of education which is responsible for the planning, development, and execution of an extensive educational program for communities, organizations, and individuals in all parts of the State. These services and materials include: Speakers, discussion leaders, films, radio programs, posters, exhibits, publications, and consultants to assist in the development of community institutes, workshops, and conferences.

The educational division also activates and services the commission's community councils, seven of which are now in operation in the following locations: Albany, Broome County, Buffalo, New York City, Syracuse, and Onondaga Counties, Troy, and Westchester County. Other councils are in the process of organization. The law specifically sets forth the following functions of the councils:

1. To study the problems of discrimination in all or specific fields of human relationships or in specific instances of intergroup tension.

2. To foster through community effort or otherwise, good will, cooperation, and reconciliation among the groups and elements of the population of the State.

3. To make recommendations to the commission for the development of policies and procedures in general, and in specific instances, and for programs of formal and informal education which the commission may recommend to the appropriate State agency.

During the commission's existence its educational activities have been continuously expanded and intensified. There has been effective cooperation with labor organizations, commerce and industry associations, and the State department of education, school superintendents, and boards of education. The division of education of the commission, through its community councils and unofficial groups in those communities where no official councils exist, has implemented the

work of the commission in accordance with the legislative mandate.

The commission councils have rendered noteworthy service in acquainting the citizens of the State with the purposes of the law and the philosophy which motivated its enactment and determines the methods of its administration. Represented on these councils are industrialists, labor leaders, employment managers, clergymen of the major religious faiths, instructors on the college and university level, teachers of secondary and elementary schools, and representatives of other civic agencies in the community. They have manned speakers' bureaus, and have filled engagements before Rotary, Lions, Kiwanis, and other service groups, churches and synagogues, trade associations, and various community organizations. It would be impossible to calculate or measure the benefits which flow from the selfless activities of these men and women.

The educational programs developed by the commission are familiarizing the people of the State with their duties and responsibilities under the law, and are stimulating popular opposition to discrimination in employment and in other fields of human relations. Citizens participation in implementing the provisions of the law has been a major factor in its widespread acceptance.

The New York State Commission Against Discrimination has attempted to administer the law in an atmosphere of cooperation, rather than in an atmosphere of conflict. The pursuance of this policy has not completely eradicated discrimination because of race, creed, color, or national origin, in the State of New York, but it has reduced the incidence of discrimination and created expanding opportunities in employment for previously barred groups. Everywhere there is a growing consciousness and acceptance of the principle that any discriminatory practice based on race, creed, color, or national origin, is undemocratic and a violation of fundamental human rights.

We are now ready, Mr. Chairman, to answer any questions that any of the members of your committee desire to ask this representation.

Mr. POWELL. First I want to thank all of you gentlemen for coming. The New York Commission Against Discrimination was the first legislative attempt anywhere in America to enact an FEPC. In fact when Senator Ives was here a few days ago to testify I called him the father of FEPC legislation.

I am interested in this problem as far as New York State is concerned, not only because I am a resident of New York State but because, back in the 1930's, I launched the first picket campaign to get Negroes jobs, because we had no New York State Commission Against Discrimination, and the Supreme Court ruled in the case of the *New York Negro Alliance v. Peoples Drug Stores* that Negroes deprived of the right to work because of color had a greater right to picket than did even members of trade unions.

It so happened that when we began, Governor Lehman was conducting a study on discrimination against the Negro. That study grew out of the Harlem riots. In the course of that investigation I recall the vice president of the New York Co. saying on the witness stand that they employed no Negroes and very few Jews and Catholics, and that they never would, because, as I remember his exact words, it was impossible for people of different color and different religions to work together. That was in 1937, before Governor Leh-

man's commission to study discrimination against the Negro in New York State.

Of course, we went out and picketed the telephone company just the same, and they finally began to employ Negroes, even before the State commission against discrimination came into being.

The same thing applies to the department stores. I launched a picket campaign there against Macy's. Now today we need no more coercion of that nature, because we have the State commission. However, it has come to my attention in recent days the number of cases of discrimination in New York State being presented to your commission is increasing.

Is that true?

Mr. PINO. That is true.

Mr. EDWARDS. For the last quarter, and that is the first 3 months in 1949, there has been a considerable increase in the ratio of complaints filed, and we attribute that to the effect of the commission's educational program, the cooperation that we receive from civic organizations interested in the successful administration of the law, and partly due to an increase in unemployment. We have not only, as our statement indicates, depended upon the filing of verified complaints. The number of investigations instituted by the commission itself is in excess of 300, and those investigations very often accomplish a great deal more than can be accomplished by the processing of a complaint of an individual.

So I might say that, for instance, a small public utility corporation, early in the days of the commission, was the object of an exploratory investigation instituted by the commission itself. There we found, while there was no acknowledgment that unlawful discrimination existed, what, in the opinion of the commission was ample evidence of rank discrimination. This discrimination operated in one section of the city where there were a great many Jewish residents and quite a few Negro residents, and their own records showed that during the 10 years prior to the time that our investigation was made the number of Jewish and Negro employees had gradually decreased, even though those elements of the population in that particular area had more than quadrupled. As the result of that investigation their whole employment policy was revised, and as the result of subsequent inquiries we have ascertained, or made a record of the facts of accomplishment which showed an upward trend, and a rather sharp upward trend in employment of Negroes and of Jews.

That is cited just as one indication of what can be accomplished by investigations instituted by the commission without complaint.

I might say that our conferences with large employing interests have proved successful, without the formality of an investigation, as seeking their cooperation, ascertaining what they think their difficulties are in the way of effectively cooperating for the successful administration of the law, and then we try to show them how they can cooperate, and how those problems or difficulties can be met, and I want to say that we have received very good cooperation.

For instance, the largest organization of employer interests in the State, I believe, is the Associated Industries. We have had representatives at their annual conventions yearly since this law became effective. They have published the commission's rulings in their magazine, and

they have studied the law itself, and after sending representatives to confer with our commission they have printed the report of their own committees, and the educational effect of that has been very good.

Recently, in addition to establishing community councils in localities, some of them cover larger areas than others depending upon the population in any given area, and we have decided to establish industry-wide advisory agencies. Four large-scale industries have been selected. The first industry, the organization of which is proceeding and is almost near completion, is the hotel and restaurant industry. The other three are the banking industry, the insurance industry, and public utilities.

Each of those industries has established or will be requested to establish advisory agencies on which we expect not only employer representation, but union or organized labor representation, and also the general public.

Each is assigned to a separate commissioner, and that commissioner will be the commission's liaison with that agency, and will work with them, and in addition get them to work through him in cooperation with the commission.

Mr. POWELL. I would like to ask one final question on this particular problem. What has happened with the "sandhog" situation? That is the toughest one we had.

Mr. EDWARDS. I can tell you, Congressman. We have a number of complaints filed. It just happened that Chairman Garsite referred all of those complaints to me. Some of them were against one contracting association, some against two contractors, others against a single contractor, and the "sandhogs" union, the Compressed Air Workers Union, No. 147, and still another against a contractor, the union and a foreman.

The discriminatory acts, or unlawful employment practices were all alleged to have occurred in connection with the work on the Brooklyn-Battery tunnel.

Mr. POWELL. Being built with Federal money.

Mr. EDWARDS. Yes; being built with Federal money, that is right. In those 12 cases, up to the present time I have made a finding on the question of probable cause existing in 9 of the 12. The other three have been investigated and they are on my desk ready for such action. Of those nine I found that probable cause existed in five, and in four that probable cause did not exist.

We have arrived at an adjustment with the union on one case where probable cause was found against the union, and that adjustment is that the individual complainant must be accepted into membership by that union, and they have agreed to that.

Mr. POWELL. How recent is that?

Mr. EDWARDS. Within the last 2 weeks. That is quite recent. Another was against the contractor which had the Brooklyn end of the tunnel operation, in which it was found that probable cause existed. The stipulation setting forth the basis of adjustment satisfactory to the commission is that the contractor must reemploy this complainant and pay to him for money lost, which represents the difference in the pay between a lower- and a higher-paid job, or the sum of \$154, and that has been agreed to.

There is one other case which is quite important, which is against the contractor, in which probable cause has been found, and where

we required reemployment and have proposed that there be paid to this individual 10 weeks' back pay, which amounts to approximately \$800. That proposal has not been accepted up to the present time. We rather look forward to its rejection, and that will mean that we, in that event, will go to a public hearing on that case. That tells you the story in a few words, Congressman.

I think we have done effective work in connection with that situation, I should have said that, in addition to the specific findings on the complaints setting forth the grievances of the individuals, we have also found that generally there has been and is a pattern of discrimination by reason of the practices of the foremen representing not only one but two contractors on that job. We have before them now a proposal to change their policy and to arrange a new hiring system under which we think discrimination will not be as easy as it is at the present time.

Mr. POWELL. There are many serious cases along the New York City water front. I don't know whether they have been brought to you or not. These men are really afraid of their lives, because our water front situation is a disgrace to New York City.

Mr. PINTO. We have invited that particular union to confer with us. We sent them a telegram after receipt of your letter. They did come in, but they had absolutely no information to convey to us.

Mr. EDWARDS. They have been conferring in the meantime with the New York City Department of Investigation.

Mr. PINTO. And Judge Page has been investigating into it, as you know.

Mr. POWELL. It is a bad situation. I guess we have had from 15 to 20 people killed in the past 30 years on the New York water front, by goons or others. All the honest men of labor in the city of New York want that situation cleaned up. That is a disgrace to our city and a disgrace to labor. These men are afraid. If there was some way of being protected they would come forward. I don't know whether we could go into it, although it is a question of discrimination, but I do want to tell you Congressman Jacobs, of Indiana, has a special committee set up by Congressman Lesinski, and although I am not a member of that committee, he has given me the privilege to sit with them when they come to New York, and we are going to go into that thing even if we have to give these men complete protection, because we, as union men, want to see that situation cleaned up.

Mr. EDWARDS. That has existed for a long while.

Mr. POWELL. For 25 years.

Mr. PINTO. It is disgraceful.

Mr. EDWARDS. The rivalry there between local unions is very keen. Of course, as you say, there has been so much crime—so many murders committed there—they resort to those extremes in fighting over the work. It is based more on local union rivalry than it is actually upon race, creed, color or national origin, although some of those local groups are, of course, composed mostly of people of one race or nationality.

Mr. POWELL. That is the unfortunate thing.

Mr. PINTO. Mr. Chairman, may I just correct the record? I heard Senator Douglas mention the fact that the former chairman of the commission came from the Turner Construction Co. I don't know where Mr. Douglas got that information. That is entirely not so.

Mr. Turner happens to be a very reputable lawyer in New York City, but he has never had any construction experience. He came to the commission entirely free from any connection with any employers, but he did such a grand job that I do not want the record to contain the erroneous statement that he was with the Turner Construction Co.

Mr. EDWARDS. He is a former chairman of the New York City Board of Education.

Mr. BURKE. The experience you have had in the administration of the New York State act, particularly as it applies to integration, would indicate to me that you have had a great deal of experience in a good integration program.

Mr. EDWARDS. Yes.

Mr. BURKE. I am sorry to say my State does not have an act as yet. But we are hopeful of it. We found in our experience that a lot of the spadework for integration programs has been already carried out by most of the unions and many of the employers. Did you find that to be generally the case?

Mr. EDWARDS. We found less employer resistance than we had anticipated. You can take this large corporation referred to by Congressman Powell as having changed its policy and doing something constructive, even before we had the New York act, that is the New York Telephone Co. The number of girls employed there as switchboard operators, and in clerical positions, since our commission has been functioning has increased from approximately 200 to 550, in the New York office alone. There is no trouble.

Mr. POWELL. I understand it has about 750, State-wide now.

Mr. EDWARDS. Yes. It has expanded, as our statement indicates, to 11 other up-State cities. After the first surprise, and there was an opportunity to get somewhat acquainted, they get along just as well as if there was no difference in color at all. That is our experience.

We had the same experience in the department stores. Quite a few of the department stores in New York City now employ colored sales people, where they have to meet the public, both male and female, and there has been no resistance on the part of the employee, there has been no consternation or indignation evidenced by the purchasing public, everybody goes along just as though that thing did not happen at all. That is actually our experience.

Mr. BURKE. I have had people express fear, in various hearings, that there would be public indignation, and so on, and then leave the hearing and go to a restaurant where a Negro waiter would serve them, and they would think nothing of it.

Mr. PINTO. I wonder if Mr. Nixon and yourself would be interested to know how we process an individual case? I read the record of the Senate hearings and we have heard so many ridiculous statements about the Gestapo methods that a commission such as ours would and does use, that I thought it might be worthwhile for the record to indicate it.

Mr. NIXON. I would be interested in getting that statement in the record. Before you do so I would like to ask just a couple of questions which are preliminary to that.

Mr. PINTO. I would be glad to answer anything you have in mind.

Mr. NIXON. Do I understand from your statement that in 4 years

of the commission's operation all verified complaints have been settled through conciliation without recourse to formal hearings? Does that mean that you have not had formal hearings?

Mr. PINTO. That is entirely correct. Every one of those cases, through the conciliation process, in informal conferences, right across the table, has been settled satisfactorily to the commission and to the employers, and to the complainant.

Mr. NIXON. Following that point, then, would that mean there had been no criminal penalties assessed?

Mr. PINTO. That is right. As we had no formal hearings we made no formal order to desist, or for a reinstatement, or for payment of wages, or anything of that kind, and therefore we never had to take anyone to the supreme court, or to refer the matter to the attorney general for prosecution.

Mr. NIXON. As far as the individuals who filed the complaints were concerned, in cases where the commission felt the complaints had merit, they have been able to gain their positions without the criminal penalties of the law coming into effect at all?

Mr. PINTO. I would say "yes" to that statement, with the qualification that not every person who files complaint in which we find probable cause gets his job back, or gets back pay.

Mr. NIXON. I understand that.

Mr. PINTO. I mean the terms of adjustment reached by the commission with the employer have been in all cases satisfactory to the employer, to the employee, or to the applicant for employment who filed the complaint.

Mr. NIXON. With that background I would like to get a brief analysis of a typical case from the time the complaint is filed, or not filed, as the case may be, and also I would be interested in any comments you might have as to how you have been able to use the criminal penalties of the law as a lever to get a settlement, if necessary. In other words, if that has been done I wish you would bring that into the analysis of the case.

Mr. PINTO. Mr. Spitz called my attention to the fact that I made too broad a statement before when I said every one of our adjustment agreements have proved satisfactory to the complainants. Of course, you understand that is not always true, but the commission takes the position that if the agreement is satisfactory to the commission, and they are convinced that the commitments are going to be carried out—there is good faith in those commitments—then of course we say to the complainant, "That is satisfactory to us, and you, of course, if you disagree with that judgment, may appeal to the chairman for reconsideration, and he may, upon reviewing the file, agree or disagree with the adjustment made by the individual commissioner," but we have had no reversal of any commissioner's ruling in those adjustment processes.

Mr. NIXON. What you could say then, without exception, is that settlements have been made, which, in the opinion of the commission have complied with the letter and spirit of the law.

Mr. PINTO. That is right. Now, with reference to a typical case, I don't know whether I ought to give the details of the case, but take any verified complaint that comes to us—

Mr. POWELL. I just want to interrupt a second. If you would just give the high lights I would appreciate it, because we want to get away from here about 12 o'clock.

Mr. PINTO. I will be brief. I will endeavor not to do as the lawyers do: The court asks them for a brief and they submit 45 pages, when it could have been done in 3 pages.

A complainant comes in, charging discrimination—either that he was asked improper questions relating to race, color, creed, or national origin, or that the manner in which he was interviewed was not considered within the purview of the law and some discrimination was apparent. He files the complaint with us. That complaint goes to the chairman and the chairman assigns it to one of the commissioners and to a field representative. The field representative, under the direction of the commissioner, then goes out and interviews the employer, we will say, assuming it is an employer case.

Now, he doesn't go in there and turn the employer's books upside down, nor does he stop the business; he talks to the employer in his private office and confers with him, and reads the complaint to him in an informal way. He does not serve the complaint on him as if he was going to be brought to court, and there is no publicity at any stage.

Mr. POWELL. There is no publicity at any stage?

Mr. PINTO. That is right; there is no publicity at any stage. He tells him what the complainant has complained about and he says to him, "What is your side of the story?" And the employer tells him. Then the field representative says, "Now, I would like to talk to Jones," who is the person alleged to have said these things, or done these things. Then he is brought in sometimes with the employer present and sometimes privately, so we get a pretty good picture of the position of the employer.

Of course, invariably there is a denial of discrimination. Very seldom do we have any clear admission; but once in a while the employer says, "Did he do a thing like that? That is against our policy." There may be an admission.

The field representative reports the facts to the investigating commissioner. He may or may not send for the complainant again to ascertain if there is any rebuttal to the statement made by the employer. Most of the times we do send for them, because we think it is right that they should know what was found out.

After that comes in, the investigating commissioner is in a fairly good position to determine whether there is any merit to that complaint—whether there is probable cause. If he thinks there is probable cause, he then writes a letter to that employer and he says, "I have found probable cause in this case."

The next step as mandated by the legislature in the law, is to talk to the employer about this—to confer with him; to conciliate; perhaps to persuade him to eliminate the discriminatory practice found to exist. That is done in a very informal manner, in our office. Once in a while we have the complainant in there. Personally, I do not have them there because there is too much bickering. We get the employer in there, and their attorneys sometimes accompany them, and we go into the whole thing. If we really believe there is probable cause, we do whatever we think is necessary. At other times there is reluctance to admit that the finding is correct, but the case may be settled in a conference, or by conciliation or persuasion. We get it settled by agreement, if we possibly can. We have, in all these cases,

been able to get the employers to go along with us, when we think the thing is wrong, or violative of the laws. Then we agree on the terms. It may be a reinterview of that particular applicant, or that particular employee, to find out on the merits whether that particular applicant is deserving of consideration.

Sometimes we do get a little money for the complainant. I think since we have been in existence we probably have had 28 or 30 cases where we have gotten some money damages for some of these discriminated-against people.

Now, if there is an agreement, what do we do? We do not draw a long formal agreement. We exchange letters with them; we say to them, "You have agreed that that is wrong; you have expressed a desire to comply with the law and you have agreed to the reinterview, to put up on the bulletin board a copy of the law, and to notify your divisional heads and foremen that the law has got to be complied with, because this is your policy and you want to comply with the law." There are readjustments along that line which we believe the people will keep. They write back and say, "We agree to these terms; we agree to carry them out."

We do not stop there. We review that case in 6 months. We go around to see whether the commitments made have been carried out. Of course, you cannot always prove that 100 percent of it is carried out, but we utilize the different agencies; we refer applicants to them; we check with those agencies to find out whether they used those organizations; and we check, as far as we can, to see whether they kept those commitments. We have found in most of the cases that the commitments made have been kept. So that case may not be closed at the end of 6 months. We say we will review it again next year. In other words, we keep them alerted to the fact that we are keeping a continuing interest in the case.

Take a case where we find no merit to a complaint involving a Negro, but we do find a bad practice against Jews or Catholics or Protestants. In other words, we cover all situations that affect every minority group. We have a right, under our plenary powers, to look into that and to correct it, although it may be incidental to the disposition of the individual case, and we draw an agreement that will take care of that general proposition. We do that in the spirit of cooperation. There is no gestapo method at all.

You know, this commission had a very difficult task in the very beginning. We had certain pressure groups that wanted us to go in and tear business upside down. We had the business element that said, "Look, you are transgressing on a very dear and precious right that we have had for a very long period. You cannot even look at our books." This commission was in a very delicate position. To go over on the pressure side would have been death to this law, it would have been repealed in a year, and to go over on the business side would mean that we would be just a commission without action. So we steered a middle course; we went right down the center, trying intelligently and diplomatically to enlighten the people, both employers and the labor unions, and the rest of them who would come within the provisions of this law, that this was a just thing to do. That is why we succeeded. If we handled it in any other way, I think we would not bring about the success that we have achieved up to this time.

We haven't removed all discrimination. That cannot be done overnight, but we are on the road, and we have reduced incidents of discrimination. We think that the way this thing has been handled by us has helped these other States to get into line, and if we have a national act it is going to help the general cause. Now, we are limited, of course, to the State of New York, interested merely within the confines of our own boundaries, but if a national act is passed then we will be interested in those cases that would come in interstate commerce.

Mr. EDWARDS. Our commission, interpreting the law, has held that to discriminate in the employment of a minority group of people is unlawful, and that segregated employment is unlawful, although the statute itself does not specifically provide that, but we have so ruled, and up to the present time we have adhered to that.

Then another thing I would like to say is this: Commissioner Pinto told you how we operate. Just a few words to give you an example of results: A large merchandising concern was found to never have had any Negro employees in any occupations, except porters and elevator operators. We had a complaint filed by a person who sought a clerical position. This concern, in some up-State cities, had a more liberal policy in their branch stores than in their main office in New York City. We sustained that complaint, although we did not immediately order that the respondent should employ the complainant because the application process had not been completed. She filed a complaint before an interviewer who had an opportunity to test her qualifications, so we merely said, "You will have to reinterview this individual and find out what her qualifications are."

The peculiar thing about that was that the representatives of the complainant—and there were lawyers there—insisted that the Commission should demand in the first instance, preliminary to any further consideration, that this person be reemployed. We refused to do that. We said what we wanted to do was to change the policy of this concern which, without question, had been and is discriminatory. We were looking not only to the correction of a wrong done to one individual, we were looking for an effective cooperation whereby a large number of people of the same group will receive opportunities.

Now the result was this, that upon reinterview the girl was hired. Since then she has had two increases in salary, which we found out by reinvestigation, and in clerical positions only, 34 other Negroes were employed. Prior to that complaint being filed, throughout its whole history, no Negro was employed in any job except in a menial capacity. That is a typical case.

Mr. POWELL. Thank you. Are there any other questions?

Mr. BURKE. Yes, Mr. Chairman. I think it is significant that the operation and the administration of the procedures under your act have indicated very pointedly that the most effective and efficient way of dealing with human relations is by methods of negotiations, conciliation, and so forth.

Mr. PINTO. And education.

Mr. BURKE. And you use the whip very sparingly. We have found that to work very well even in labor relations in my home area.

Mr. PINTO. We would not do as well if we did not have the whip in the law. Conciliation without sanctions would not bring some of

these men to terms, but the fear of another hearing, the fear of an order does whip them into line in a very nice way. Those who say you can just have an educational law are wrong, because it just will not work. It is because it is in the law that we have had such a rare success in getting people to do things voluntarily, and without it we would not have succeeded.

Mr. BURKE. That is right. It does bring out very forcibly the most efficient and most effective way in dealing with human relations is by conciliation and negotiation.

Mr. PINTO. Of course. You cannot do it by a mere legislative act.

Mr. POWELL. Thank you gentlemen for coming.

We have as our next witness Commissioner Elwood S. McKenney, of the Massachusetts Fair Employment Practice Commission, and we have then a delegation of miners from Bessemer, Ala., who just came up last night, or yesterday, to testify, and we will try to get one of the witnesses in before we adjourn for this afternoon.

Mr. McKenney of the Massachusetts State Commission will kindly come forward.

TESTIMONY OF ELWOOD S. MCKENNEY, COMMISSIONER, MASSACHUSETTS FAIR EMPLOYMENT PRACTICE COMMISSION

Mr. MCKENNEY. Mr. Chairman and members of the committee, I want to thank this committee in behalf of the Massachusetts Fair Employment Practice Commission for the privilege of being invited to come down here and testify in favor of H. R. 4453.

In 1942, 1944, and 1945, investigations were made by the legislative committees in Massachusetts with respect to the extent of employment discrimination in the Commonwealth of Massachusetts. Those investigations revealed, as late as the one in 1945, that there was without doubt considerable discrimination in utilities, most manufacturing concerns, retail stores, and other places of business.

The reasons that the employers gave were various. They said there were no qualified people in the so-called minority groups to employ. They said they did not have separate facilities for their use when they were employed. They gave many reasons. At any rate, in 1946, a Fair Employment Practice Act was passed in Massachusetts. It was modeled very closely on the statute passed the year before in New York State, with the exception that the commission in Massachusetts has been given the authority to initiate complaints on its own. This authority has been used very carefully, and it is only when the commission has had reason to believe discrimination has existed that it has filed complaints.

At the very beginning the commission determined that certain matters of policy are to be decided. One of them was that you could not force an employer to eliminate discrimination in employment unless he understood why he ought to do it. Unless you gave the employers the benefit of the experience of other men who had found out that if you employ people of all colors and all religions you do not have to be afraid of public reaction—you do not have to be afraid of bad employee relationships.

Another matter of policy was that all complaints should be very carefully screened before they should be permitted to be filed. In

that respect our field representatives question and requestion the complainants, to make sure their story is logical and reasonable, and after that is determined, the complaint must be notarized, which is very similar to the procedure in New York.

Another matter of policy was in the investigations. There should be a very careful analysis and survey of the factual situations. I think the fact that our statute provides before an employer can be found guilty of discrimination that there must be sufficient evidence on the record, has done a great deal to insure employers that they are not going to be troubled by nuisance complaints, or to be harassed or burdened by unfair charges.

There is a provision in our statute that provides for judicial review. Of course, you have to be extremely careful to see that what you are doing will receive the approval of the courts.

We in Massachusetts have examined the major arguments against restrictions of the exercise of employer's right to hire, promote, and discharge on the basis of race, color, and religion. The same arguments are raised wherever this type of legislation is proposed, and they were raised in Massachusetts.

I would like to examine our experience in the 3 years of this law in Massachusetts. Prior to the enactment of the statute in Massachusetts the representatives of industry said that the passage of FEPC legislation would create such a burden upon employers that the most damaging effect it would have would be to drive business out of the State. Well, the 1948 report of the Boston Chamber of Commerce speaks for itself. That report said that during 1948, the third year that the fair employment practice law was in effect, 36 new business organizations had been established in Metropolitan Boston, and further than that, 58 existing firms had begun new construction at a cost of \$300,000,000.

I think the working people have prospered under FEPC in Massachusetts, and business has apparently prospered in its own way.

It is also significant that after 2½ years of FEPC in Massachusetts, the Associated Industries in Massachusetts and the Boston Chamber of Commerce both issued statements that although they were not in favor of the law as a matter of principle, they were satisfied legislation of that type could be administered without causing a burden upon industry. That doesn't mean that the Commission has been remiss in its duties, it simply means it has won the confidence of business.

They said in Massachusetts that of course FEPC was an attempt to legislate against the mental attitudes and prejudices of employers. We have never taken the position that the act has prohibited anything but unfair practices. If the man still wanted to retain his prejudices while he was eliminating his unfair practices, that was his business. As a matter of fact, it is curious to note that after employers have eliminated unfair practices very frequently their attitudes change.

I remember one case where a young girl, who happened to be a clerk, had applied for employment in a big packing business and the personnel manager said he could not employ her because she was too well qualified.

Mr. POWELL. Too well qualified?

Mr. McKENNEY. She was too well qualified. Well, at the informal conference we asked the personnel manager, "Why do you think she is

too well qualified?" He said, "Well, whereas most girls write their application blanks, this girl had printed hers," and, furthermore, he noted she studied piano when she was 4 or 5 years old, and, in addition to that, she had 2 years of night school. Of course, on investigation of the 200 employees of the company there were a considerable number of girls who had the same experience, the same schooling. The board of directors of that company had a meeting and decided that maybe they ought to do the right thing, and they hired this girl, and came to the conclusion, after she got along, that they had to hire every person, regardless of color or religion.

We have very old New England firms, some very old Massachusetts firms steeped in all the New England traditions about running businesses in Massachusetts. One of these was complained against and a finding of probable cause was made, and the first colored salesman was put to work in the company.

His experience was that for the first 2 weeks he was employed nobody spoke to him, and during the third week one or two employees spoke to him, and then they began to congregate around him while he had lunch and decided he was just another fellow like they were, and there was never any difficulty after that.

Similarly, in a big automobile plant in Massachusetts a complaint was filed charging a supervisor, who, incidentally, had been transferred from Atlanta, as having refused to employ a young colored fellow because he thought he could not work with the white employees.

The net result of that complaint was this fellow went to work and nobody spoke to him, nobody did anything else but stare at him for the first 2 weeks, but he stuck it out, he kept his chin up, he appeared in the shop on time every day, and he finally got along with everybody. That company has now employed over four dozen colored mechanics and assemblymen in its plant.

I think these examples represent a changing of the employer's attitude when his fears are broken down that the colored and other minority-group employees cannot work together.

I think that a national act against discrimination would broaden the base of our national economic enterprise. I do not think we could hope to broaden the base as long as millions of our people have not had the proper opportunity to be educated, as long as they have not had an equal chance to work in our offices, in our production line, and in our industries.

I think the passage of the FEPC law will have a marked effect on decreasing and eventually destroying that type of practice. I think the law will have this effect because the men respect the law just because it is the law of a State, or the law of the Nation.

In Massachusetts there were many, many businessmen, and there still are, who are not in favor of the principle of FEPC legislation, but because it is the law we have considerable evidence that they have given voluntary compliance to it.

As in New York, our telephone company is now employing without discrimination operators, draftsmen, clerks, and stenographers, they are employing without discrimination in every category of employment. Similarly with our street railway system, the Metropolitan Transit Authority. After the passage of the FEPC there were no

complaints filed against the railway company. They began to hire colored operators on busses and streetcars, and they began to hire persons in other capacities than porters, which was not the practice prior to the FEPC in Massachusetts.

Similarly, law firms are now employing colored girls as stenographers and clerks. The cab companies which never hired without discrimination previously, now are hiring on the basis of qualifications. That goes also for manufacturing companies, and also the banks. It is very important to the banks, because in the financial investment field there was considerable evidence over the years that unless you were of a particular religion or color you had no opportunity. The presidents of the banks in Boston have said they will hire without discrimination, provided they get qualified applicants. I think these evidently voluntary compliances show the effect of the law all by itself, without any complaint.

I think the businessmen realize the necessity of bringing their practices into compliance in order to avoid being charged with discriminatory practices.

There is little doubt that the experience in Massachusetts, New York, New Jersey, and Connecticut has convinced the legislatures, industries, and the people in these States that the FEPC can be effective.

In Massachusetts we have seen the effect of FEPC on many utilities, as I have mentioned, the public carriers, business organizations, in the field of insurance, retail marketing, and manufacturing, hotel management, and other fields.

From the beginning of its administration in the fall of 1946, the Massachusetts Fair Employment Practice Commission has processed over 500 complaints of economic discrimination involving business organizations employing over 400,000 persons, and just as has happened in New York, there has not yet been an occasion to conduct a single formal hearing, nor has there been occasion to have the matter referred to a court of law for further consideration.

The settlement of one case in a given field has opened up the door to job opportunities. This is particularly true in the department-store field. I think I can say this as a matter of fact, that in Boston now, as the result of complaints originally filed in this field against the large department stores, all the department stores are hiring without discrimination. I refer particularly to their employment of colored salesgirls and colored salesmen. This is a practice which has come into being in the last 3 years, since the FEPC was passed.

The reason for the success of FEPC in the Northern States—and I speak particularly for Massachusetts—I think is the recognition by the commissions which administer the law that discriminatory employment practices can be eliminated more effectively by reason instead of force. Additional reasons are the fair dealing of the commissions in respect to both complainants and respondents; an appeal to the sense of justice of the men who control employment policies, whether they are in industry or the organized labor movement.

I mentioned the organized labor movement. I would like to say a word about the effect of the FEPC on union policies in Massachusetts. Immediately after the passage of the Fair Employment Practices Act one of the railroad brotherhoods, which has organized the employees of the largest terminal in Boston, was forced to eliminate the restrictive clauses against the admission of any but Caucasian

workers, and thereupon admitted almost immediately its first colored members.

I think those members were the first in the United States to be admitted to one of the big brotherhoods.

The law has also effected further changes in the type of contracts which these brotherhoods are able to negotiate now with the railroad carriers. Provisions which restrict the promotion of men because of their color and which give preference to the members of the brotherhoods who are white are invalid under our statute, and they are opening up the door in that particular industry for promotional opportunities for colored persons who previously could be only baggage handlers and redcaps.

We had a great deal to do with the unions in one of our larger industries in Massachusetts, the fishing industry, and also with the unions in the hotel and restaurant industry. Immediately after the fling of complaints against the unions in the hotel industry they began to send out colored waiters to work with white waiters in the big hotels, and this is the practice which the hotelmen thought just could not come off successfully. It did, however, and without any objection from the patrons of those hotels, and later from the hotelmen themselves.

I think neither the Congress nor any section of the United States has any reason to fear the administration of a Federal FEPC. I think a Federal act, provided the persons who administer it are chosen intelligently, can be administered just as well as the acts in the States of Massachusetts and New York. I think the administration of these acts is just as important as the provisions of the act itself.

Mr. POWELL. Representative Nixon has to leave now and he wants to say something to you.

Mr. McKENNEY. Yes.

Mr. NIXON. I regret that I have to go to another appointment, but I would like to say for the record that several weeks ago I was discussing with our colleague from Massachusetts, Mr. Herter, the operation of the fair employment practices law in Massachusetts, and he particularly singled out the witness who is on the stand today as being one of those who was primarily responsible for the great success of the law in Massachusetts, and in fact, was very high in his praise of the witness' background and his ability.

I would like to say for the record, after having read his statement, and having heard him on the stand, I am certainly in full agreement with his estimate of the witness from every standpoint.

Mr. McKENNEY. I thank you.

I would like to say a word about administration and why I think administration is going to be very important in the success of any Federal act.

In Massachusetts we have had many cases, particularly some that we are handling now, where we deal with an entire industry. Of course, the employer has no choice as to whether he will comply with the law or not—he has got to comply with the law—but he raises the problems which are facing him, so he says, with respect to his employees, with respect to other employers in the same field.

One of the ways that we have successfully eliminated discrimination in some of these fields is by recognizing that there must be compliance. We recognize also that there are effective ways of bringing that about.

One of them is, where employees in a given field are not thought to be receptive to the employment of persons, irrespective of their color or religion, to commence, No. 1, an educational program among all the employers in the field; and secondly, an educational program among the employees, and then I would say—and this is very important—the employment of colored persons or Jewish persons in the field for the first time who are not only the best qualified but who have the proper temperament to go into these industrial organizations and keep their chins high and not bridle at insults, if they should come, but always to keep in mind the objective. Their very employment in a job that they are going to do is going to break down the resistance not only of the employer but also the employee.

As a matter of fact, we had a number of cases where, after a successful conciliation was accomplished, the person or persons who filed the complaints originally were afraid to go in and work in the company because, they said, "Now the employer is not going to like me because I brought the complaint," or "the employees will not get along with me because I forced my way in."

I don't think that any section of this country—particularly the South—ought to fear that its customs and mores and habits are going to be changed overnight; that the men are going to be forced against their will to do something with which they have no sympathy.

I say that for this reason: In Massachusetts, since the FEPC, there has been so much opportunity provided for persons of our so-called minority groups that today I can frankly say there are more jobs open for them in fields from which they had been previously barred than there are qualified persons to take those jobs.

One of the big problems that is going to arise after the first hump is over is to get qualified persons of minority groups to go in and work. It is going to take time, not to educate the employers particularly, but to educate the new employees, and to get them trained in the first place, to get them in a position where they can qualify and be accepted for employment in competition with other persons who have had advantages for a much longer time.

I think that it will be a slow process at best in fully achieving a recognition by employers all over the United States that they have to comply with the Federal law, because before they can comply they have got to be given the opportunity, and before they can have the opportunity, these persons who have not had the chance of education, or the chance to get the experience, have to go through that stage first. It is not going to happen if you pass a Federal law, in a year or 2 or 3 years; it is going to take some time to remove all fears that this section or that section of the country is going to be faced with a terrific problem right away. I think the act will be accepted all over the United States, and public opinion has shown that the dire results which are predicted today never come true.

We ought not to fear so much the colored man, or the matter of religious preference in the United States. I think we will do away with this question when equality of opportunity in education and employment is given to all people.

When these steps have been accomplished by legislation, by education, all of us will seem less different to each other, less strange, and we ought to live in harmony. Let me paraphrase the words of our

late President, when this happens "we shall have nothing to fear but fear itself."

Mr. POWELL. I thank you for a very fine piece of observation. I have one question. You have the right to initiate complaints, while New York State does not have it.

Mr. McKENNEY. That is right.

Mr. POWELL. Have you used that right?

Mr. McKENNEY. Yes; we have used that right. We have used it approximately 140 times.

Mr. POWELL. It is interesting to know that in New York State the commission cannot initiate a proceeding unless someone makes a complaint to the commission, while in Massachusetts you can, and out of 300 cases—

Mr. McKENNEY. Out of over 500 cases.

Mr. POWELL. Out of 500 cases almost one-third of the cases you initiated yourself.

Mr. McKENNEY. That is right. Of course we are very careful to see that the evidence exists primarily for the initiation of the complaint.

Mr. POWELL. Mr. Burke.

Mr. BURKE. I have no questions, but I would like to join with the chairman, Mr. Powell, and with Mr. Nixon in congratulating the witness for the fine presentation he made.

Mr. POWELL. Mr. Eugene Calhoun. This is a delegation of miners from Bessemer, Ala., who appear here today just for these hearings.

Mr. Calhoun will speak for the group.

TESTIMONY OF EUGENE CALHOUN, OF BESSEMER, ALA., REPRESENTING THE MINE, MILL, AND SMELTER WORKERS OF THE BESSEMER DISTRICT, ACCOMPANIED BY FRANK ALLEN, J. P. MOONEY, E. H. COLEMAN, AND ROBERT WILSON

Mr. CALHOUN. I am Eugene Calhoun, from Birmingham, Ala. I am speaking for the mine, mill, and smelter workers of the Bessemer area. I work for the Tennessee Coal, Iron & Railroad Co.

One reason why I want to support the fair employment practices is because these people down there are being denied the rights and privileges to have a job and to earn a decent living, because of their color. This particular company, in the last 2 years almost completely quit hiring Negroes. They hire whites about 100 to 1. Of course that is not because of their inefficiency, but because they can use them to bust the labor unions.

I think the fair-employment-practice law should not only be run to protect workers against the company from discriminating against them, but also protect the workers in the labor unions. We find in the South the companies are being able to hire one race against the other, and they are able to bust the labor union, so the labor union is not able to protect the minority workers, or the Negro workers in the area.

We feel if we had such a law it would protect those people in the area. It also would protect, in a lot of cases, the people from starvation, because, as it is in the big department stores down there, some pressure groups come along where Negro workers are hired, who have been working there for years, and they come along and tell them,

"You must displace this person and give that job to some white worker," simply because they feel there is a white worker out of a job. If there was a law passed then this employer would not fear these people and put the colored people wandering on the streets.

A lot of times the employer wants to keep the help that he has, but due to the fact that he has got these pressure groups to press him, he lets his best help go.

We feel if this law was passed it not only would increase production and quality of the people, but it would help the employers, the public, and everybody concerned.

The company that I work for has, in a large degree, tried at times to promote the Negro workers, but they had no law to back them up and pressure groups kept them from promoting the Negroes. There probably was a time when I myself would have gone up higher had it not been for such influence.

You know some people go along and say, "We will take care of this on a voluntary basis. We don't need any law."

I would like to bring out a point, that before the abolition of slavery the people said, "We will take care of it," but it went along through the years and nothing was done. It is necessary that we have a law that will take care of the people, because that is what the laws are written for.

In this area, where these different people are using race against race where, if they had a fair-employment-practices bill they could not do it, they are not only destroying the worker's right to organize but are destroying his rights to an education, and to have the other necessities of life.

So, coming out of the South and knowing the conditions there, it floors a man to know how much the law would help, because there are not just a few things that ought to be done, but there are thousands of them.

Another place where this law would help is where terror is being spread. If this law were passed that would not come about, because it would be a law and they would have no reason to go around and try to make a man violate the law. There being no law, they have no alternative but to make them go along with the oppression.

For the last 16 years we have had a labor organization there, and we had to fight to keep the rights of some of the people in that area. Even after gaining certain rights for some other people in that area, but not having a law, these companies went to the white workers and were able to bribe them, that is, to stop the promotion of Negroes or the promotion of any other minority groups.

That is why I would like to see the law not just cover the employer but also the labor unions.

Recently we entered into a collective-bargaining election where terror exists, and where probably this election would not have been held had there been this Fair Employment Practice Act. Some people might use the argument that you would divide the people, but I think it would bring them together. The only way to divide them is to not have it, and they will continually be divided, but if this law was passed naturally the American citizens would all be willing to obey the law. It has always pinched the people down there, because not only are not equal wages paid them for the same kind of work, but they set up the jobs there for the colored and for the white, and the

colored do not have a chance to be promoted, with all their qualifications. There is no reason why the majority of colored people in the South should not feel that FEPC would really start them on the way to a better living.

Mr. POWELL. May I ask you a couple of questions? You work as an iron-ore miner?

Mr. CALHOUN. I do.

Mr. POWELL. How long have you worked as a miner?

Mr. CALHOUN. Twenty-nine years.

Mr. POWELL. How long have you had a union down there?

Mr. CALHOUN. About 16 years.

Mr. POWELL. Do Negro and white people work together, or how is it set up?

Mr. CALHOUN. They do not work together now.

Mr. POWELL. They used to work together?

Mr. CALHOUN. They used to work together.

Mr. POWELL. Side by side?

Mr. CALHOUN. That is right.

Mr. POWELL. Until how long ago?

Mr. CALHOUN. Sixteen years ago. I might relate this story to you: Sixteen years ago I was what they called a head miner, or a section foreman, and under me worked white men. That was before the union. After the union came they divided the white men and the colored men, put the white men in one group and the colored men in another.

If they hire a white miner and I am a foreman, they tell me I will have to leave this job or he will have to leave, because he can't work there with me.

Mr. POWELL. Of course, you see, under the FEPC, under the law they can still work white and Negro separately, but they cannot discriminate in hiring. You claim now Negroes do not get a chance to be hired as they used to?

Mr. CALHOUN. That is right.

Mr. POWELL. The ratio now you say is about 100 to 1?

Mr. CALHOUN. 100 to 1.

Mr. POWELL. What did it used to be?

Mr. CALHOUN. Our ratio used to be about 78 Negroes to about 22 whites.

Mr. POWELL. Is the United Mine Workers in your area also?

Mr. CALHOUN. They are a good way from there.

Mr. POWELL. How do they work? Do they work together pretty well?

Mr. CALHOUN. Yes; they work together pretty good.

Mr. POWELL. They are not meeting any discrimination?

Mr. CALHOUN. I don't know much about their organization.

Mr. POWELL. Mr. Burke, do you have any questions?

Mr. BURKE. I don't quite understand what you say. You say for 16 years you have been organized. Prior to that time you operated as a foreman, but since the organization you have been deprived of your opportunity of acting as a foreman.

Mr. CALHOUN. Sixteen years ago I was a foreman and I had white men work under me. That was before the union. Since that time they have divided up and we don't work together under each other.

Mr. BURKE. Who has divided them?

Mr. CALHOUN. The company has.

Mr. POWELL. How long ago did they do that?

Mr. CALHOUN. Sixteen years ago.

Mr. POWELL. What did the union do?

Mr. CALHOUN. When the union first started organizing there they divided them up.

Mr. BURKE. Did the division come prior to the organization of the union or after the organization of the union?

Mr. CALHOUN. After the organization of the union. That was during the process of it.

Mr. POWELL. You mean the company divided you as a means of trying to get even with the union?

Mr. CALHOUN. That is right.

Mr. POWELL. The union won the election?

Mr. CALHOUN. At that time, yes; the union won the election.

Mr. POWELL. And then the company divided the Negro from the white and tried to play one group against the other; is that right?

Mr. CALHOUN. That is right.

Mr. BURKE. According to this written statement you have just gone through a collective-bargaining election. What were the circumstances there?

Mr. CALHOUN. This is an election between the unions in that area down there.

Mr. ALLEN. I would like to answer that.

Mr. POWELL. You are one of the miners down there?

Mr. ALLEN. Yes, sir. During the election, or sometime before the election was held, about a period of a year, the company frankly refused to hire any Negroes at all. They hired all white workers in order to get a majority of their employees white, in order to defeat this election that is mentioned here, and they did it by playing race against race.

Mr. BURKE. What you are saying, then, is that the union was set up purely for the purpose of promoting racial discrimination?

Mr. ALLEN. No, no; not that the union was set up for the purpose of racial discrimination.

Mr. BURKE. Is it a union of national affiliation?

Mr. ALLEN. Certainly.

Mr. BURKE. Then it was not set up for that purpose?

Mr. ALLEN. No; not the way we look at it.

Mr. BURKE. That is a pretty serious charge.

Mr. ALLEN. Absolutely, and we realize that.

Mr. BURKE. That the election was held, you might say, purely for the purpose of racial discrimination.

Mr. ALLEN. What other way could you determine it when the companies refused to hire Negroes until they got the whites in a substantial majority, and then refused to bargain until the elections were held?

Mr. BURKE. Mr. Chairman, if that kind of allegation is made here, I think the representatives of the other unions involved in this election should be given an opportunity to be heard.

Mr. POWELL. Do you suggest that?

Mr. BURKE. Yes.

Mr. POWELL. All right.

Mr. BURKE. The allegation is made that the election was held purely on the basis, you might say, that it was to be used for the purpose of racial discrimination, as an incentive.

Mr. POWELL. If you suggest that, we will ask the clerk to invite the union in to answer these charges.

Mr. BURKE. Will you furnish the names of the other unions to the clerk?

Mr. ALLEN. Yes.

Mr. POWELL. Thank you ever so much. We are very happy to have you with us, and we trust that the FEPC will go through and it will help the workers in Alabama and everywhere else.

We will adjourn now until 2:30.

(Whereupon, at 12:35 p. m., the committee recessed to 2:30 p. m. of the same day.)

AFTERNOON SESSION

(The committee reconvened at 2:45 p. m.; Hon. Adam C. Powell, Jr., presiding.)

Mr. POWELL. The committee will come to order. Mr. Nixon will be here in a few minutes, but we will go ahead in the meantime.

Representative Werdel, will you come up and sit with us?

I am going to ask that Mr. Houston come up first, and then Mr. Johnson will follow Mr. Houston, and then Mr. Corbett.

TESTIMONY OF CHARLES HOUSTON—Resumed

Mr. HOUSTON. Mr. Chairman and members of the committee, yesterday the committee heard from the Brotherhood of Railroad Trainmen and the Brotherhood of Locomotive Firemen and Enginemen. These are what you might refer to as the ground-floor organization, because they have jurisdiction over the men in the train and engine service when they first come on the property.

The organizations which you still have to hear from today are the Brotherhood of Locomotive Engineers and the Order of Railway Conductors—organizations which originally were for what you might call crafts on the second story—and that brings up the very basic point about the organization of railway labor; that is to say, that the conductors are taken by promotion from the ranks of trainmen or brakemen and the engineers are taken by promotion from the ranks of firemen; no engineer on a railroad today is an engineer who has not served his apprenticeship as a fireman, nor is there any conductor, so far as I know, on a railroad today—I am not speaking of pullman conductors—but any conductor who has not served his apprenticeship as a brakeman or a trainman.

That is very important, for two reasons: One is that the men move up and back and forth between the two crafts by promotion, and they carry their seniority which they first acquire either as trainmen or as firemen with them when they are promoted, so that the man who is an engineer also has a seniority date as a fireman from the day he first served as a fireman, and a man who is a conductor has seniority also as a brakeman or a trainman from the day he first served. The point is that the railroad insures a reserve labor pool and keeps its men available by what you might call promotion, and sending them back

according to the expansion or contraction of the industry, so that an engineer could go back to firing when business is reduced or a conductor can go back to braking when business is reduced, and he is there available to resume immediately his job as either an engineer or as a fireman or as a conductor when business expands.

Now, that is reflected not only in the operation and handling of these employees by management; it is also reflected in the union organization, because both the Order of Railway Conductors and the Brotherhood of Locomotive Engineers take men who have not yet become qualified in their particular ranks; that is to say, the Order of Railway Conductors will take brakemen and the Brotherhood of Locomotive Engineers will take firemen, so that you see that there is a constant flow back and forth between the two organizations. They call the men who belong to both organizations "double-headers," and in the policies of one organization to the other organization they tend, through the interchange of membership, to more or less reflect certain similarities on basic issues.

There is also the connection between the organizations. In the train-service group you have the Switchmen's Union of North America, which is a small organization generally referred to as the "splinter group"; you have the Brotherhood of Railroad Trainmen; and then you have the second-story organization, the Order of Railway Conductors.

In the engine-service employees you have the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen.

One of the circumstances which causes rigidity is the matter of race relations, for example: I know as between the Brotherhood of Firemen and enginemen and the Brotherhood of Locomotive Engineers there is a fear that if either one of them shows any softening so far as the race relations are concerned, the rival organization will berate them under the theory that "you are giving in to the Negroes."

I have had that told me time and again by the Brotherhood of Locomotive Firemen and Enginemen with respect to the engineers. Now the two organizations are attempting to get together and form a joint organization of the Brotherhood of Locomotive Firemen and Enginemen and the Brotherhood of Locomotive Engineers.

Let me now then take up the Brotherhood of Locomotive Engineers.

The Brotherhood of Locomotive Engineers was organized as the Brotherhood of the Footboard on the Michigan Central in 1863.

I think it is very interesting in connection with that, when we are talking about the matter of race relations, to realize that one of the reasons which caused the organization, or certainly precipitated it, was in the Civil War, during the manpower shortage, the attempt on the part of the Michigan Central to put Negro firemen on; whereupon the Michigan Central engineers protested, and the Brotherhood of the Footboard was in part the result.

The Brotherhood of the Footboard has by changes become the Brotherhood of Locomotive Engineers. The constitution did not bar Negroes until 1875, but in 1875 the constitution was changed and still remains a constitution which restricts membership to whites. There are no Negroes, so far as I know—

Mr. POWELL, May I interrupt right there? Are there any Jews in the brotherhoods, so far as you know?

Mr. Houston. No.

Mr. Powell. Proceed.

Mr. Houston. You appreciate the fact that it is almost impossible to find out who is Jewish and who is not Jewish, but certainly the record of employment on the railroads is that the Jews are not employed in train and engine service on the railroads as a class. They are certainly not conspicuous.

In 1892 the Brotherhood of Locomotive Engineers made an agreement to help firemen get rid of the Negroes. At that particular time there was a great question about promoting firemen to engineers.

Now, the presence of Negroes as firemen on the southern railroads provided spots where the engineers up North in time of labor excess or surplus could come down to the South and get hired as engineers. This meant that the engineers did not particularly care for the promotion idea on the southern railroads, because it represented a place to spot their surplus men.

The Brotherhood of Locomotive Firemen and Enginemen wanted more firemen promoted on the southern railroads, and they tried to get together and work it out with the firemen collaborating with the engineers. The engineers joined with them in a movement to try to rid the southern roads of Negro firemen, and in 1892 the engineers agreed to do so.

In 1899 the engineers joined with the Brotherhood of Railroad Trainmen, the Brotherhood of Locomotive Firemen and Enginemen, the Order of Railway Conductors, and the Order of Railroad Telegraphers in displacing Negro colored porters on the Gulf Coast & Santa Fe.

In 1908 there was an authorization on the part of the Brotherhood of Locomotive Engineers to organize the engineers in South America. There was a report back to the 1910 convention, and I think that is very important, because it is a report from F. A. Burgess, who was assistant grand chief engineer.

On May 11, 1910, at the ninth biennial session in Detroit, Mich., at pages 105 and 107, Burgess starts like this:

Brothers, the grand chief has told you that we did not organize Cuba, but I do not believe he went so far as to say we didn't try. Let me make this report, and then it will be a question whether you want him to try.

I will admit that I was one of the members of this brotherhood that thought we ought to organize Cuba. I will plead guilty and will frankly admit that I did not know what I was talking about.

In pursuance with his instructions, I went to Havana and to all the terminals of any consequence in Cuba. We did not organize any of the engineers in Cuba, for what we considered the most excellent of reasons: that we were unable to distinguish the nigger from the white man. Our color perception was not sensitive enough to draw a line. I do not believe that the condition will improve in a year from now or in 10 years from now or in any other time, unless you stock the island of Cuba with a new race, entirely getting rid of the old.

We call ourselves thoroughbreds, but I do not believe you can tell a thoroughbred from a renegade Spanish soldier intermixed with the Jamaica Negro. That is where the largest part of the population of Cuba sprang from—the Spanish soldier and the Jamaica Negro.

And he winds up with this expression:

On the other hand, there is a higher duty you owe to this organization than to yourselves, and I hope that the time will never come when this organization will have to join hands with the Negro or a man with a fractional part of a Negro in him. Now that is the way the case stands.

I bring that out because this history has no place except as it reflects the present condition, and the present condition is still that of barring Negroes.

As a matter of fact, to the best of my knowledge and our information, and this was certainly true when I last checked it, the Brotherhood of Railroad Trainmen and the Brotherhood of Locomotive Firemen and Enginemen have amended their constitution so that in States which by law prohibit the exclusion of a worker from a union on the ground of race, creed, or color, in those States the constitution limiting membership to whites does not apply. Nevertheless, of course, in spite of the law, no Negro gets in, because they have the blackball system, and he is knocked out by blackballs.

However, the Brotherhood of Locomotive Engineers has not even changed its constitution, so far as I know, even for a State such as New York.

In 1917 Grand Chief Engineer Stone wired his general chairman on the B. & O. that engineers would be justified in refusing to take Negro firemen out on their runs. That is the same, may it please the committee, as a strike. In other words, if an engineer refuses to go out on a run because he does not have a fireman, that in substance is withdrawing from the service and is a strike.

I should like to read the resolution that was passed. This is the resolution of the advisory board of the Brotherhood of Locomotive Engineers in session at Cleveland:

Resolved, That it will be the policy of the Brotherhood of Locomotive Engineers that Negroes will not be permitted to fire locomotives on any railroad that does not now employ them as such, and we will request that on such roads as do now employ them that they be confined to the districts as defined for them at the present time, and that the percentage of Negro firemen on divisions where they are employed jointly with white firemen be not increased.

Mr. BURKE. What is the date of that?

Mr. HOUSTON. 1917.

Mr. POWELL. During World War I?

Mr. HOUSTON. During World War I. The source is the Locomotive Firemen's magazine of the 15th of August 1917, at pages 11 and 12.

Mr. POWELL. What brotherhood was it that ordered a strike ballot during World War I?

Mr. HOUSTON. That was World War II. In World War I it was the Brotherhood of Locomotive Firemen and Enginemen which said they would be supported, the men would be supported in striking; but it is the Brotherhood of Locomotive Engineers when the grand chief engineer tells the men that they will be supported in refusing to take their engines without a white fireman. So that in substance it is both organizations.

In 1917 there was joint action by the Brotherhood of Railroad Trainmen, Brotherhood of Locomotive Firemen and Enginemen, and Order of Railway Conductors in getting three white brakemen on in place of Negroes on the Texas & Pacific Railway.

In 1928 there was an agreement on the Frisco not to hire any more Negroes in train, engine, and yard service, not including train porters, which was signed by J. W. Bohler, who was general chairman of the Brotherhood of Locomotive Engineers, and the assistant grand chief engineer.

On March 21, 1944, the general chairman of the Brotherhood of Locomotive Engineers on the Frisco signed a joint letter with the Brotherhood of Railroad Trainmen, which goes back to the question that you asked about whether there was any evidence that the Brotherhood of Railroad Trainmen resisted the employment of Negroes in World War II.

On March 21, 1944, the general chairman of the Brotherhood of Locomotive Engineers on the St. Louis-San Francisco Railroad, and the general chairman of the Brotherhood of Railroad Trainmen sent a joint letter that they were unalterably opposed to the employment of Negroes in train and engine service in the war emergency, and at the present time there is a proposal under foot between the Brotherhood of Locomotive Engineers and Brotherhood of Locomotive Firemen and Enginemen for a merger.

Now, as to the problems of promotion: on that I should like to introduce the matter which Mr. McBride talked about. I am giving the committee an actual copy of the promotion notice which Mr. McBride expressed for the Brotherhood of Locomotive Firemen and Enginemen, as of January 26, 1948, and I ask that it be inserted in my testimony.

Mr. POWELL. Without objection, it will be inserted.

(The document referred to is as follows:)

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN,
January 26, 1948.

DEAR SIR: This is to advise that the employees of the ----- constituting the craft or class represented by the Brotherhood of Locomotive Firemen and Enginemen, have, through their duly constituted representatives, approved the following proposal for addition to and/or revision of the existing agreement or agreements:

1. All firemen and helpers now in service or hereafter employed shall be in line for promotion to the position of locomotive engineer. Each fireman and helper shall be called in seniority order and required to take examinations for promotion. Those who pass such examinations and meet all other requirements for promotion will be promoted to engineer. Those who decline to take the examinations or fail to qualify for promotion shall be dismissed from the service.

2. All firemen and helpers who heretofore failed to pass, declined to take, or were not called for promotional examinations shall, subject to the provisions of section 1 above, be called for promotion and required to pass the necessary examinations and otherwise qualify for the necessary examinations and otherwise qualify for promotion within a reasonable length of time (to be agreed upon) from the effective date of this agreement.

3. Eliminate all provisions of existing agreements which limit in any manner the exercise of seniority of firemen and helpers, hostlers and hostler helpers.

4. All provisions of existing agreements not in conflict with or modified by the foregoing shall remain unchanged.

In accordance with the terms of the existing agreement, and in conformity with the provisions of the Railway Labor Act, as amended, please accept this as the required formal notice of our desire to revise and/or eliminate portions of the existing agreement or agreements to the extent indicated.

The same request, as of this date, is being presented to the managements of practically all railways situated in the Southeastern District.

It is hereby requested that all lines or divisions of railway controlled by the ----- shall be included in settlement of this proposal and that any agreement reached shall apply alike to all such lines or divisions.

It is desired that reply to this proposal be made in writing to the undersigned on or before February 5, 1948, concurring therein or fixing date within thirty

(30) days from the date of this notice when conference with you may be had for the purpose of discussing the proposal. In event adoption of this proposal is not agreed to in conference, it is suggested that this company join with the managements of other carriers in authorizing a conference committee to represent them in dealing with the subject on a concerted basis.

Yours very truly,

----- Chairman.

Mr. Houston. I call attention to paragraph 4, where it says that—

All provisions of existing agreements not in conflict with or modified by the foregoing shall remain unchanged.

That is the point I was talking about concerning the percentage agreements as to restrictions on hiring; and, saying that, you can see the position the Negro is placed in in any merger, where he then will have both the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen—the two organizations together representing all of the men in engine service—and when I say “all of the men” I say that meaning all of the union men, because, of course, there are nonunion men, since the railroad industry is not a closed-shop industry but an open-shop industry—when they have all of them against them in one official policy.

Likewise, I say that in spite of the fact that these negotiations and discussions for merger have been going on for a few years, the Brotherhood of Locomotive Firemen and Enginemen has never told the Negro as to whether in making this proposal they had already gotten an agreement with the Brotherhood of Locomotive Engineers that the engineers would run with or against a Negro fireman.

Now may I go to the Order of Railway Conductors, just to put the matter in front of your committee.

The Order of Railway Conductors was organized in 1868, but here the restriction limiting membership to whites was not inserted in the constitution until 1909.

In 1899 there was joint action by the Order of Railway Conductors with the Brotherhood of Railroad Trainmen, Brotherhood of Locomotive Engineers, and the Order of Railroad Telegraphers against Negroes replacing them on the Gulf Coast & Santa Fe, and there was an agreement in 1909 with the Norfolk & Western that there should be no more Negro brakemen employed. That is officially reported by the Order of Railway Conductors.

In 1910 there was joint action with the BRT, and they negotiated the agreement in which it was provided there should be no more Negro brakemen or firemen, and in 1911 they spelled that out upon most of the southern railroads.

In 1914 the Order of Railway Conductors joined with the other organizations in writing a letter to General Goethals, and in 1915 it joined with the Brotherhood of Railroad Trainmen in displacing Negro trainmen with whites on the Cleveland, Cincinnati, Chicago, & St. Louis.

They also had joint action in 1917.

Now, in 1942, one of the most interesting developments so far as this situation is concerned is as follows:

The Order of Sleeping Car Conductors was in the A. F. of L. The Brotherhood of Sleeping Car Porters was in the A. F. of L. There is the institution known as the porter in charge; that is to say, where there is no sleeping-car conductor or pullman conductor, the Negro,

porter who is on the car takes up the tickets, makes out the diagrams, and so forth, and he is called the porter in charge—he is given extra money per month added to his salary for the added responsibility—just as the dining cars have waiters in charge when there is no dining-car steward and the dining-car waiter in charge does all of the work but does not get the money.

Now, the porters in charge were very preferred jobs, because they were quasi-conductors. They did all the porter work and did the conductor work in addition to that, and it was provided in the Brotherhood of Sleeping Car Porters' contract, which was revised June 1, 1941, that where a porter in charge had charge of two cars he would then get the minimum conductor's pay.

The Order of Sleeping Car Conductors came to Congress and introduced a bill, which was H. R. 9407 and S. 3708—I do not know the Congress or the session, but they had hearings on it May 15, 1940, which would have provided that it would have been unlawful for any railroad to have permitted a passenger to have occupancy space in a sleeping car between 6 p. m. and 8 a. m. unless that sleeping car was in charge of a sleeping-car conductor, which is obviously aimed, just like the full-crew laws in the States which are aimed at knocking out Negro train porters in part, as well as other things, this was aimed at knocking out the porter in charge.

Those hearings did not produce legislation.

The Order of Sleeping Car Conductors went to the A. F. of L. executive committee to force the A. F. of L. executive committee to have the Brotherhood of Sleeping Car Porters support this bill. The executive committee of the A. F. of L. did not do so. Then the Order of Sleeping Car Conductors insisted that the executive committee of the A. F. of L. should take away from the Brotherhood of Sleeping Car Porters jurisdiction over the porters in charge, on the ground that they were doing brakemen's work—I mean conductors' work.

The significant thing is that they were not going to admit the porters in charge to membership in the Order of Sleeping Car Conductors, but they were going to take jurisdiction.

The executive committee refused to do that, whereupon the Order of Sleeping Car Conductors withdrew from the A. F. of L. and amalgamated with the Order of Railway Conductors, and in August 1945 the Order of Railway Conductors jammed through an agreement with the Pullman Co. which provided that whenever there were two cars, the two cars had to be under the jurisdiction of a sleeping-car conductor. So that whereas prior to 1945 there were six to eight porters in charge always running out of Union Station here in Washington, today there is not a single porter in charge running out of Union Station. So we see the Order of Railway Conductors reaching over, taking in the Order of Sleeping Car Conductors, and then reaching further over, taking jobs away from Negroes who are ineligible to membership.

I am not quarreling about the matter of craft jurisdiction; what I am saying is that the principles of craft jurisdiction never apply when it comes to a question of color, because a white man, if he were a porter, could then subsequently qualify as an individual for the sleeping car conductor's job, but a porter in charge cannot, and for that reason it always gradually reduces itself to a matter of race relations.

Now, I have shown you that the Switchmen's Union of North America, the Order of Railway Conductors, the Brotherhood of Railroad Trainmen, the Brotherhood of Locomotive Engineers, and the Brotherhood of Locomotive Firemen and Enginemen are the only unions which have jurisdiction over train and engine service employees.

As a final statement I should like to introduce to the committee the rules that govern the organization of the first division of the National Railroad Adjustment Board.

The rules for the organization of the National Railroad Adjustment Board, first division, were formulated by the Railway Labor Executives Association. You see the similarity there. I am representing the Negro executive committee; the whites have the Railway Labor Executive Association. They are made up of the heads of the railway labor unions, national in scope, about 21. Under the authority of Congress and the Railway Labor Act, they formulated the rules for the nomination of the labor members to the adjustment board.

Now, if you will turn to the first page and look where it says what the rules are to govern the selection of labor members in the National Railroad Adjustment Board, and look at the first division, which is the division of the Board which has jurisdiction over all train and engine and yard service employees, the only persons who can be elected to division 1 as labor members come from the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors, Brotherhood of Railroad Trainmen, and Switchmen's Union of North America.

I have given you, for just about 2 days a recital of how there has been a persistent effort for 40 years or more to drive Negroes out of service.

What possible chance does a Negro have in bringing his complaint before a board where 50 percent of the members are taken from unions whose official policy is to drive them out of service?

Another word about the adjustment board: Salaries of the members on the adjustment board are not paid by the Government. Salaries of the members on the adjustment board are paid by their own organizations. They have no fixed term of service; they can be withdrawn by their organizations at any time, so that where a paid officer of the organization is sitting on division 1, you have there a blanket disqualification and that is the most imperative argument for having a Government committee—an impartial, nonpartisan Government committee—take over the functions of these disputes, so that fair employment practices are established.

Mr. POWELL. I would just like to get this picture together in a nutshell:

You have presented evidence from their constitution, from their history, and from their conventions, that these two brotherhoods today, do not admit Negroes?

Mr. HOUSTON. That is right.

Mr. POWELL. No. 2: there are not even any Jews in the brotherhoods?

Mr. HOUSTON. To my knowledge, that is true, although there is no blanket disqualification as such.

Mr. POWELL. No. 3: the National Railroad Adjustment Board, to which a Negro would have to bring his grievance is composed of the very men who will not admit him to their unions?

Mr. Houston. That is true. You see, the Adjustment Board has four divisions, and we are talking now of Division 1, which is the train operating employees. That is absolutely true.

Mr. Powell. And that is a Government Board, and yet at the same time the members' salaries are paid not by the Government but by the brotherhoods. It is a Government Board, and the brotherhoods have the right to place on the Board whomever they want to and withdraw them whenever they want to and substitute someone else for them?

Mr. Houston. That is right. And since 1934 they have never named a member to the Division except one of their own officers; and now, under this agreement of January 26, 1948, they are reaffirming all previous existing agreements, except on the matter that they would impose promotion on these men. In other words, where we have now fallen down from, say, 4,000 to about a few hundred, they would further disqualify most of that few hundred by the promotion examinations; and yet there is no guaranty even if they go through the promotion examinations and pass that they will have the opportunity to serve; that is, the Brotherhood of Locomotive Engineers takes the position that they will strike even if the employment of Negro firemen is extended.

What would be the situation there if a Negro engineer was upgraded? Before the firemen jam the Negroes up against promotion examinations the firemen in good faith should say to them, "We will stand back of you with the entire strength of our organization to see that if you do qualify you should have the same chance to serve in the same job opportunities as every other man on the railroad who is qualified."

Mr. Powell. If they do pass the examination, they cannot be accepted?

Mr. Houston. That is right.

Mr. Powell. So that the brotherhood now does have something to do as regards hiring?

Mr. Houston. It has this to do, certainly; I mean, on the Frisco there is a formal contract against hiring. I explained to you how informally the matter of hiring is turned over for recruiting to the local chairman.

I would emphasize: There is no Negro who is at the present time in the craft of conductor or in the craft of engineer, so that they do not have the problem on the same level as the Brotherhood of Railroad Trainmen and the Brotherhood of Locomotive Firemen and Engineers. They do not face the individual members as individuals, but they do have the problem that if promotion comes it precipitates the Negroes into their crafts, and it is just at that point that the previous resistance which they have shown to the employment of Negroes on the lower level becomes material, as the Negroes would march up in the ordinary course of things to take a chance at promotion.

Mr. Powell. And, furthermore, through the years leading right up to the present day, before this case came before the Supreme Court and the circuit court, they displaced Negro workers with seniority of 30 to 40 years, and put whites in their place. Is that correct?

Mr. Houston. That is correct as late as 1948. What has been done since 1948, I do not know, because I think that the pressure of the

cases has made the firemen considerably discreet in holding on to see what is going to be the outcome of the further litigation.

Mr. POWELL. The final summary remark I wish to make is the fact that during World War I and World War II, while we were at war, the brotherhoods either ordered a strike ballot or did the next thing tantamount to ordering a strike if Negroes were employed by railroads, such as the Baltimore & Ohio—

Mr. Houston. New York, New Haven & Hartford.

Mr. POWELL. Atlantic Coast Line. And they said if Negro workers are employed, even though we are at war and needed the workers—if Negro workers are employed we will strike, or we will do the next best thing, such as in the engineer situation, if a fireman comes in the engineer would refuse to run the train. Is that right?

Mr. Houston. That is correct; except that I should say that there is nothing to indicate that the Order of Railway Conductors took any part. I found no record of them taking any part as to World War I. World War I is concerned with the Brotherhood of Railway Trainmen, Brotherhood of Locomotive Engineers, and Brotherhood of Locomotive Firemen and Enginemen. In World War II all four of the organization are involved, which is even worse.

Mr. POWELL. Mr. Burke, any questions?

Mr. BURKE. Yes, I have a question.

I have been listening here for a couple of days now. The history has been very, very interesting to me, and I have been trying to tie it up with the provisions of the bill.

It would seem to me that if the bill is passed, and that is what you want—

Mr. Houston. That is right.

Mr. BURKE. The correction of the conditions that you cite would then become an administrative undertaking under the administration of the act itself.

Mr. Houston. That is right.

Mr. BURKE. I have been looking through the bill here, and I find in section 5 (b) :

It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment or would affect adversely his wages, hours, or employment conditions because of such individual's race, color, religion, or national origin.

Now, I have asked each of the two gentlemen who have appeared so far for organizations, and both of them have said that their organization has not gone on record in opposition to the bill nor has it gone on record for the bill. They are not offering any active opposition.

I am wondering: Is there any need for criticizing the organizations any further, as long as it will be an administrative problem after the act is enacted?

Mr. Houston. Well, I would say, sir, that when the act is actually passed I will quit criticizing the organizations, because I am not interested in picking dry bones; but the bill, unfortunately, is not yet legislation, and we are dealing with a present situation, and the country should be educated as to what the discriminations are and how they are being imposed.

That is particularly important because we argue this: Under the Railway Labor Act you have unit bargaining by class or craft. The courts have ruled that the railway cannot bargain with an individual. It cannot bargain with anybody else after recognizing one bargaining agent until the second bargaining agent has been certified by the National Mediation Board, which occupies the same relation to the railroads as the National Labor Relations Board occupies to other industry. So that the unions which are in the majority in any craft or class completely dictate the conditions and terms of employment, and under the set-up of the National Railroad Adjustment Board has complete control of all grievances which come up and does all the policing of the contracts.

So unless the man is in the union, even though they should try to argue that this is an open-shop industry, nevertheless where the union has complete control and the right of policing and enforcing and interpreting the conditions of work, then I say to you that restriction of union membership is still such that a man holds a job by sufferance and not on the same equal conditions as anybody else.

Mr. BURKE. But 5 (b) is about as far as we can get in legislation.

Mr. HOUSTON. We are not asking you to go any further than 5 (b), but we are asking you to go that far, and I put a lot of emphasis on the absolute importance of establishing a nonpartisan board. My suggestion was there should not be any more than three of the same political party, so that we would have that representation, in view of the experience of the set-up of the Adjustment Board, which I have just laid before you.

I think the bill is comprehensive, and I think the bill will accomplish everything that it is designed to accomplish. So far as the railroad industry is concerned, it would not work a revolution, because you have so many furloughed men. It will be the slowest type of process before you would begin to see the trickle even of Negroes or these other minorities into these positions, on account of the furloughed men after the great expansion in World War II.

Mr. BURKE. I read, also, the last few days where one railroad president said that the railroad industry may be in a very deplorable state within 5 years, as far as the industry itself is concerned, and those employment opportunities may become even fewer, according to the statement made by that gentleman.

Mr. HOUSTON. That is quite true; but at the same time we want the same first-class citizen's chance at them as anybody else, and we want that protection by law.

It is our position that the Government which puts loyalty on an individual basis, which makes you pay your taxes on an individual basis, which makes you perform service in the armed forces on an individual basis, owes the citizen protection under the same individual basis.

Mr. BURKE. I subscribe to that.

Mr. POWELL. I would like to repent what Mr. Houston said yesterday. Mr. Houston, speaking for the Negro railroad men, said that he would not in any way advocate the doing away with seniority standing, even if it took 10 or 15 years before Negroes came to the place where they could be admitted to railroads.

Mr. Houston. I repeat that labor has purchased seniority at tremendous sacrifices of blood and tears and effort, and I would not vary the protection of seniority one iota.

We are willing to take our place at the end of the line, but we want to be in the line.

Mr. Powell. Any questions, Mr. Nixon?

Mr. Nixon. Mr. Houston, as I understood you the other day you were here, you indicated that in order to carry out the policy of this law you have to have an open union to do so.

Mr. Houston. Theoretically the answer is "Yes," sir.

Mr. Nixon. As I understand it, simply having a provision in the law that there shall be no discrimination would not be effective unless the administration of the law was carried out in such a way as to avoid the use of procedures and various excuses for denying membership on other grounds than discrimination.

Mr. Houston. That is right, sir.

Mr. Nixon. And so in effect you have to have the membership in the union open?

Mr. Houston. That is right.

Mr. Nixon. At least so that that excuse cannot be used?

Mr. Houston. That is right, sir.

Mr. Nixon. Now, do I understand that at the present time the railroads, as a matter of practice—although under the law they do not have a closed shop—do not do any hiring in these particular crafts that you mentioned, other than of those who would be eligible under the rules of that craft, as far as race is concerned?

Mr. Houston. That is true.

Mr. Nixon. They could, though?

Mr. Houston. They could if they wanted to. That is management's prerogative.

Mr. Nixon. Have you looked into that possibility?

Mr. Houston. As to whether they would?

Mr. Nixon. As to whether they would or whether they have considered it.

Mr. Houston. I think they have considered it, but the answer is that you have two arguments: Promotion is a bar, because when wages were equalized, if a carrier has to hire a man and make the investment, if a man has over 20 years—and brakemen and firemen get from around \$400 to \$500 a month—that means that in 20 years, let us say, there has been an investment of anywhere from \$100,000 to \$125,000. Therefore, they want a man whom they cannot only use as a fireman; obviously, they want a man they can also use as an engineer. So that this promotion bar, not only from the standpoint of the union, but from the standpoint of just economic investment, has been an incentive away from the railroads hiring Negroes.

In the old days, before World War I, when Negroes were worked at a substandard wage, the economic incentive was equalized, because you depressed the Negro wages down, and therefore it did not make any difference if you could not use him except as a fireman. That is gone.

In addition, unfortunately the carriers used to use Negroes as strikebreakers. They got on the Frisco in 1894; they got on the Florida East Coast Railroad in 1910 or 1911. I am not excusing that.

We have been the victims. But I am saying that in the old days before collective bargaining was recognized and given the protection of the law, the Negro was a counterweight against unionization.

Now that the law has surrounded the railroad with unit craft bargaining, so that member or nonmember, the terms are the same and there is no possibility of varying the terms, you have the lessening of the reason for management to hire over on the other side. Whether you accept it or do not accept it, you have had this absolute solid opposition on the part of the employees to any more Negroes coming in.

Mr. NIXON. One other question: As a matter of practice, as far as the sleeping-car porters are concerned, for example, is the membership in that group limited to Negroes?

Mr. HOUSTON. No; there are many Filipinos who are members of the Brotherhood of Sleeping Car Porters. They are the club-car attendants.

I understand that the Brotherhood of Sleeping Car Porters' representative, Mr. Anderson, is right here. I think that in Canada they have some white members. Am I right or wrong?

Mr. ANDERSON. They have white members in Canada.

Mr. HOUSTON. In other words, it is a craft proposition with them.

Mr. NIXON. As far as either theory or practice is concerned, the Brotherhood of Sleeping Car Porters is at the present time an open union?

Mr. HOUSTON. That is right. The same as the United Transport Service Employees Association, which is called the Red Caps. They have white and colored Red Caps in the organization. That is a CIO union.

Mr. POWELL. Chicago has all white Red Caps.

Mr. HOUSTON. I do not know about the union organization, but I know they have white people.

Mr. NIXON. That is all.

Mr. POWELL. Mr. Werdel, do you have any questions?

Mr. WERDEL (a Member of Congress from the State of California). I did not have any idea of asking questions when I came here. I came here because I heard Mr. Houston was going to be here.

As I understand you, Mr. Houston, you object, first, to the authority of the brotherhoods to keep people out because of race, creed, or color; and then I understand from what you have said that you admit that if that authority is changed by law the membership itself will reflect its attitude through the blackball.

I have been interested in the documents and the way you have had your evidence documented, and I assume that what it reflects is true for the purpose of what I want to say.

But let us assume that that prejudice does exist and it is effective. What I am interested in hearing you tell us is how we are going to write a law to correct it and how it is going to work in practice. In other words, say we write the law, then what are you going to ask us to do?

Are we going to assume because no one is hired that there is a prejudice that brings on criminal penalties? If we say one is hired, is that enough? Are we going to require unions to have a presumption against them unless they have the same percentage of colors and creeds in their organizations that there are in the community?

I am just wondering how we can work it.

Mr. HOUSTON. May I go back to where you started.

So far as an organization as such is concerned, it does not make any difference to me whether the unions were taking Negroes or not, except for the effect that they have on a man's job—in other words, whatever social clubs there might be which do not affect my living, I am not interested in simply on the ground of people associating together; but when they come out and begin to affect my livelihood or rights, at that point I say that they cannot have any restriction except a restriction which would protect the job rights of the individual citizens in the Nation.

I hope I am making that clear. In other words, if there were just, let us say, this organization or a club of men on a railroad, an engineers' club, so to speak, and they wanted to go off and have a party or run a camp or anything like that, I would not be interested in that. Just as a matter of choice, I would give them the same chance to run theirs as I would want to have to run mine. But here the unions are directly affecting the living of these citizens, and wherever union organizations affect the right of a citizen to make a living, I think at that point that the restrictions on union membership must fall in face of the greater constitutional interest in equal protection of the laws.

Mr. WERDEL. That is assuming the employer wants to hire, is that right?

Mr. HOUSTON. You have got more than that, because you have the protection of men who are already employed.

Mr. WERDEL. Yes; I understand that.

Mr. HOUSTON. And it is these men who are already employed who are being protected under the Supreme Court decision of the Steele case (323 U. S. 192), which says that the union must give them fair representation.

But I am saying that you cannot get fair union representation outside the union, because the man outside the union has nothing to do and no power in selecting the union officials who do the bargaining or the straw boss or the local chairman of the grievance committee. He has no power of censure; he has no power of removal. In other words, the translation of the contract is something entirely beyond his control unless he is inside the union and has the same right over the officials who carry out policy as any other worker in the craft.

Mr. WERDEL. But, of course, I take this position: That even the members of the union that may be here present will admit that that is the purpose of the union. That is why it was organized—to aid their members.

Mr. HOUSTON. Then why should they, Mr. Congressman, have any great job protection that a nonmember?

Mr. WERDEL. Well, I will agree with you there. But when we apply the rule that you seek and we pass this bill and it goes into effect, and a white Christian goes down to be employed by some railroad company and the employer says, "No, I cannot hire you today because if I hire you I will not have hired a colored man; that will go as evidence of the fact that I have a prejudice in favor of white men; and even though you are qualified and I would like to have you, I have to deny you the work because I have a prejudice in your favor."

Mr. HOUSTON. No; that is not fair-employment practice; not at all. Let me draw you an analogy.

You know we have had cases since the passage of the fourteenth amendment on the question of the service of Negroes on juries. The absence of a Negro from a jury does not mean and raises no presumption of unfairness.

Mr. WERDEL. That is right.

Mr. HOUSTON. Negroes do not have any right to a proportional representation on juries.

Mr. WERDEL. That is right.

Mr. HOUSTON. Negroes have to prove that there has been discrimination in the selection of juries in barring Negroes solely on the ground of color. So that it seems to me that if you work it out practically you would not have any more difficulty in running the organization of industry on the question of discrimination on the ground of color than you have in running a jury system in your courts on the ground of race or color.

What I think would happen over the long run is just like pitching pennies. You pitch them up and you might get heads three times, but if you pitch them up all day long the heads and tails will more or less average themselves up.

I think you would get a sprinkling which would reflect some indication of the particular bent of the workers, some rough indication perhaps that at some point, over the whole Nation, I think the thing would average itself out.

Let me make this clear: If I thought that raising the bar of discrimination on Negroes would impose a bar of discrimination on whites, I would be against it.

Mr. WERDEL. I know you are sincere. That is why I am interested in talking with you.

I know of situations—I represent an employer in my law office at home—businessmen who employ people, and I have found occasions when those men expressed to me their desire not to employ white men because they had so many colored and they would not get along. I know of situations where retail stores are not patronized in colored districts in Los Angeles.

So this discrimination is not all one-sided, and when we pass the law its effect is not going to be one-sided. It will be used by various people or business organizations to perhaps even destroy competition, and the criminal penalties are going to be such that it is the application of it that bothers me.

Mr. POWELL. May I interpose there? I think that if Mr. Werdell could have been here this morning and heard the actual testimony of the New York State Commission Against Discrimination and the Massachusetts FEPC commissioner he would have seen just how it worked in those areas, where the employers brought forward the same type of argument that your employers brought out, how they have gone into these same ticklish and in some places tense areas and worked to complete satisfaction.

We have mentioned this morning the exchange between the New York State commissioner and myself concerning the telephone company in New York, where at one time 10 years ago the vice president of the telephone company said before the Governor's commission:

We will not employ Negroes; we will not employ Jews; we are not particular about Catholics. They cannot work together; they would develop clashes and conflicts.

Today there are over 750 Negroes in the telephone company in New York State in 11 up-State cities and New York City, and the commissioner this morning testified that they have not had to use a single time, in the years they have been operating both in Massachusetts and New York, the power which was given them by the law. Each time they worked it out through conciliation, mediation, adjudication, education—in every single case of discrimination.

Mr. BREHM. Do you feel that a change of heart to Christian brotherhood in the hearts of men is a proper answer to the question?

Mr. HOUSTON. By all means.

Mr. BREHM. Do you feel that if that is worked out you need the compulsory feature in the law? I have talked to quite a few Members of Congress who I know are interested in that type of legislation, but they object to the penalty feature, the compulsion in the law.

Mr. POWELL. The commissioners this morning from Massachusetts and from New York both said they had never had to use the switch in the closet. One of the commissioners used that phrase. But the fact that the switch was in the closet helped them in their process of education and conciliation with the employers.

Mr. HOUSTON. Mr. Chairman, might I answer the Congressman's question, because he is raising something which I think illustrates the necessity for the law.

You are referring, I am sure, in part to the movement whereby in a Negro neighborhood frequently Negroes have picketed and boycotted business concerns in order to force the employment of Negroes. That was part of your question.

That has been true. It was true in Washington and it is true in New York. It started in New York, Chicago, and many other places.

I say to you that that is just exactly what this law would prevent. It would prevent the loss to the merchants, because instead of using the only thing that they have there, which would be the economic pressure, they would not disturb the question of neighborhood relations. They would go to an impartial tribunal and submit their case to the processes and abide by the decision, as all American citizens should do, and I think that under those circumstances you would find that the very airing of the issue before an impartial tribunal, just like the very hearings which we are here conducting, will help effect the change of heart.

We run our Government and run our land and we maintain race relations, not by compulsion in the United States—compulsion to some extent—and compulsion increasingly is going down as people air the things and talk about them.

I would like to say one thing which always sticks in my mind when you talk about compulsion, and that is at the present time you have a big movement to get Negroes in the State universities. They are in the University of Arkansas, unsegregated; they are in the University of West Virginia, the University of Maryland; they are even in the University of Oklahoma on a segregated basis. They are in the same room but sitting apart. Washington University just voted 4 to 1 to admit Negroes.

In all of those instances there has never been a single instance of violence or disruption.

Mr. WERDEL. I think that is a wonderful step in advancement, and I also think that our hearings here will be of educational value to the people of our country.

I am wondering whether, if we pass a law such as this, admitting as we do and you do that many men have banded together against a race, and we tell the people of the United States that there are 60,000,000 jobs, and there are presently 5,000,000 unemployed, and employers cannot discriminate in the hiring, and we tell the white people of the United States that their employers from now on are going to have to supply evidence of the fact that they are not prejudicial in their hiring, and in the immediate future jobs will be available more to colored than to white—

Mr. HOUSTON. No, not more to colored than to white; they will be available to citizens on the basis of ability and experience and not according to color.

Mr. WERDEL. But if an employer has 100 white people on the staff and no Negroes, and he is charged with prejudice, how is he going to disprove it?

Mr. HOUSTON. All he has to prove here would be very simple: Suppose two people come up and apply; one is white and one is a Negro. The Negro is a B man and the white man is an A man. If he was a hiring boss—I mean to say, whether he was black or white—he would take the A man.

Mr. WERDEL. The railway brotherhoods say they can blackball a man because of his actions, because of the way he dresses, because of his language; and in the course of that discrimination, which they have a right to exercise in choosing their membership along those lines, suppose it develops over a period of another 5 years that there are still no colored men in that particular brotherhood; then what are we going to do?

Mr. HOUSTON. Well, I will tell you what we are asking the courts to do, and what I think the courts are going to do even without this legislation. The Supreme Court has already ruled that in the formulation of collective bargaining policies, even though the minority worker may not be a member, nevertheless the union must come out into a union hall, into open convention, to give him a chance to have his say-so. That has already been established. Now we are going further, we are now claiming that the union cannot represent him unless it gives him the same opportunity to help elect a man to do the bargaining, and the same right of control and same right of removal.

If that is so, it simply means that you will have there, even without this law, the shell of a union organization for these innocuous incidents of association which I spoke to you about, which I was not concerned with. You will have a prohibition on the union from an incidence of association which affects the worker's right to earn a living.

When you tell me about compulsion, I ask you is there any greater compulsion in the United States than the Supreme Court itself? When you ask me about the movement of Negroes into State universities by judicial decree, certainly that is compulsion. So when we have enjoined, or succeeded in obtaining injunctions against unions, while there has been no relief as far as the hiring policy is concerned, that certainly is compulsion. I do not see any reason why there is

any difference between a compulsion of a court and a compulsion of an administrative tribunal created by the Congress.

Mr. POWELL. I would like to say one last word, and that is this: From 1933 until the New York State FEPC was passed I led the picket campaigns in New York City.

Mr. HOUSTON. Yes. I know you started it, so far as the work is concerned, and particularly so far as the telephone company is concerned, because one of the things you did which struck me was that you recommended that Negroes pay all their bills in pennies.

Mr. POWELL. Mr. Wardel, when the New York State FEPC was passed, they retired me; I was finished then; I had nothing to do. The New York State FEPC has gone ahead and done a far better job than my committee did. For 10 years we picketed in New York City against utilities, department stores, but it was not done in the best way.

Mr. HOUSTON. We hope we will be able to sort of rid ourselves of our jobs. We would like to be unemployed in this particular area.

Mr. POWELL. I would like to call Mr. Johnson.

TESTIMONY OF W. D. JOHNSON, VICE PRESIDENT AND NATIONAL REPRESENTATIVE, ORDER OF RAILWAY CONDUCTORS

Mr. POWELL. Mr. Johnson, we want to thank you for staying over this extra day.

Mr. JOHNSON. I live here. However, I did have a special invitation to attend the ceremonial this afternoon for the President of Brazil.

For the record I will say my name is W. D. Johnson. I am a vice president of the Order of Railway Conductors. I reside in Washington, D. C., and I maintain an office at No. 10 Independence Avenue.

I was requested by Mr. H. W. Fraser, who is the president of the Order of Railway Conductors, and who is now confined in his home in response to instructions from his doctor, to make myself available to this committee.

Mr. POWELL. We are happy to have you with us.

Mr. JOHNSON. I was here yesterday and I have been here since 2 o'clock today.

Mr. POWELL. We are happy to have you in Mr. Fraser's place.

Mr. JOHNSON, you have no statement?

Mr. JOHNSON. No prepared statement.

Mr. POWELL. It is true that your organization, in its constitution, limits the membership to whites only?

Mr. JOHNSON. That is true.

Mr. POWELL. It is also true that from 1900, on the Norfolk & Western Railroad, on up through the years, in various instances, there has been replacement of Negro workers in various capacities by white members of your brotherhood?

Mr. JOHNSON. That is true, but not beyond the percentage that was provided in certain agreements.

Mr. POWELL. Yes. You entered into percentage agreements with various railroads?

Mr. JOHNSON. That is right.

Mr. POWELL. Irrespective of seniority, these men lost their positions?

Mr. JOHNSON. I don't know whether any of them lost their positions or not.

Mr. POWELL. And your position on this present administration bill which, as I assured the representatives of the brotherhood yesterday, came directly to me without my seeing one word of it from the Attorney General, Tom Clark, what is your position on it?

Mr. JOHNSON. We have taken no position whatsoever.

Mr. POWELL. You are not against it?

Mr. JOHNSON. We are not against it, neither have we recorded ourselves for it. I might say the same position was taken in similar legislation that was introduced in the Seventy-ninth and Eightieth Congress. We have not taken any part in it.

Mr. POWELL. I was on that committee in the Seventy-ninth Congress, Mrs. Norton was our chairman. Did you appear before this committee then?

Mr. JOHNSON. No; I did not. I took no part whatsoever in it, and I don't know any of the labor organizations that did.

Mr. POWELL. Now if this bill became a law what would be the position of your brotherhood?

Mr. JOHNSON. We would comply with the provisions of the law, either State or Federal. For your information, I might read to you a saving clause that was adopted in our 1946 grand division meeting, which was held in Chicago, because that was not too long after the law was enacted in the State of New York, and for your information I was in Albany, in the State capital the evening of the day that that law passed.

Mr. POWELL. This new law in your constitution is similar to the one that was adopted by one of the other brotherhoods yesterday. Will you read that for the record?

Mr. JOHNSON. I will read it:

If any article, section, subsection, sentence, clause or phrase of the within and foregoing constitution and statutes governing the Order of Railway Conductors of America is for any reason held to be in violation of any State or Federal or provincial or Dominion of Canada law, then and in that event the applicable provisions of such State or Federal or provincial or Dominion of Canada law shall, but only to the extent and within the limit required by law, supersede the provisions thereof;

And provided further, That any such decision shall not affect the validity of the remaining portions of said constitution and statute.

Mr. POWELL. Therefore, if the FEPC becomes a national law, your brotherhood would abide by it?

Mr. JOHNSON. Naturally.

Mr. POWELL. Now, in the matter of practical procedure, say the Baltimore & Ohio had openings, and I guess before many years it will have openings under present conditions for 100 men, and in the course of applications hundreds of white men and colored men applied for the jobs, and the B. & O. screened them and chose those whom they felt were the best, and in the choosing Negroes were chosen, and the time came that they were ready for the positions covered by your brotherhood, would you accept them then in your brotherhood?

Mr. JOHNSON. Their applications would be acted on the same as all others.

Mr. POWELL. And there would not be any blackballing against them because they were Negroes?

Mr. JOHNSON. That is right. They would be balloted on the same level. You cannot deny the right of the secret ballot, Mr. Congressman, because if that time ever comes then we are no longer free men.

Mr. BREHM. May I interrupt you there. Neither could you be responsible for the actions of your membership.

Mr. JOHNSON. That is right.

Mr. BREHM. In other words, there would be no concerted action taken by the brotherhood.

Mr. JOHNSON. That is right. I might say quite a few white men apply, and they do not get in, either.

Mr. POWELL. Just as in various businesses which I am connected with, and in my church, there are quite a few Negroes who do not get the jobs that we have available. I would like to say to you it is a matter of public information that in our church, and in our businesses, we employ people of the white race as well as Negroes. We do not practice discrimination, because we are a Christian institution, and I think any Christian institution in our democracy would do the same. The sooner we can do away with such things the better. This is just me talking face to face with you. The sooner we get rid of such phrases as "For whites only," or "For Negroes only," the more we are in keeping with the principles of democracy and of a Christian nation.

Mr. BURKE. do you have any questions?

Mr. BURKE. I have no questions.

Mr. POWELL. Mr. Brehm.

Mr. BREHM. Let me just say this. Perhaps I misunderstood Mr. Houston, but I understood him to say, in talking to Mr. Werdel, his statement was something like this: "Why should the members of the union receive special consideration?" I think those are almost his exact words. I could not quote follow them, frankly. I don't think that those folks who simply want to ride the gravy train should receive the consideration of the members of the union.

Mr. HOUSTON. Might I answer that by telling you something of the history, and that is that Negroes have offered to pay their way, even contribute to expenses, even when they were not members. In other words, we don't want to ride the gravy train. I would say the union man who has fought for the improvement of conditions should have the right of special consideration over a nonunion man, but I cannot see how you can penalize a man who wants to belong to the union and is prohibited from membership not because of anything that he does, but because the union will not have him. The railroads are public utilities, and the railroads have an obligation of nondiscrimination in service. We think a public utility which has by law an obligation of nondiscrimination as to service should also have a law as to nondiscrimination in employment. I don't think because a man is a union man on the railroad, and the union refuses to take another worker in—a worker in the same craft or class—on the irrelevant ground of race, creed, color, or national origin, and that then having raised the prohibition he could take advantage of it, or to have any special consideration on account of it.

Mr. BREHM. I thought you simply made the statement that union members should not have any special privilege.

Mr. HOUSTON. No, sir; I am for the trade-union movement.

Mr. BREHM. Thank you.

Mr. JOHNSON. Mr. Chairman, I don't want to impose on the time of the committee, but I would like to take up a few minutes of your time with the thought, perhaps, that I can clear up some of the things that have been put into this record.

Mr. POWELL. What you have said in reply to my questions and what you have read from your constitution, as amended, I think clears things up pretty well.

Mr. JOHNSON. Yes, that is to the extent of membership in our organization. I am pleased to say that I have worked on the Gulf, Colorado, and Santa Fe, and I still hold my right as a conductor on the Beaumont Division, where the colored men are employed, and they worked for me for 27 years, therefore I know something about their history. I also know something about the colored people, having lived among them for approximately 30 years, regardless of the fact that I was born in the State of Missouri.

Mention was made of the 1899 agreement on the main line of the Gulf, Colorado, and Santa Fe Railroad involving train porters. I think if you will go back and investigate that matter closely you will find that that agreement was the result of an infringement on the part of the porter on the rights of the brakemen on that railroad.

When I went to work for the Santa Fe Railroad, I was hired there as a conductor on the 11th day of April 1904. I am, therefore, No. 1 on the seniority roster, and I still hold my rights as a conductor, but I never expect to run a train again. I haven't been in active service since August 1, 1931. I was granted leave of absence to take over the duties of the office that I am now trying to fill.

If you go back and check the records I think you will find that the brakemen on the Beaumont division, back in the early days when the Santa Fe Railroad extended their line from Montgomery, Tex., to Silsbee, Tex., which is the freight division, those trains were manned by white brakemen, but a little later the white brakemen were taken off and the jobs were given to colored brakemen.

Mr. POWELL. Railroad brakemen?

Mr. JOHNSON. Yes. The colored brakemen manned all the trains on the Beaumont division of the Gulf, Colorado & Santa Fe, now identified as the Gulf division, with the exception of 97 miles that operates from Silsbee, Tex., to Port Bolivar, Tex., and that is all the white brakemen have. The yard in Silsbee is manned by colored brakemen and colored foremen.

Mr. POWELL. Today?

Mr. JOHNSON. Today.

Mr. POWELL. But they cannot be members of the brotherhood.

Mr. JOHNSON. I don't know that they have ever tried. They have an organization of their own. When I left the Beaumont division I got a very nice letter from the president of that organization. His name was Kid Griss.

Mr. BURKE. When these train porters were placed on the job as brakemen, actually the company set up a false classification, is that true?

Mr. JOHNSON. That is right.

Mr. BURKE. If that happened to me in my union I would be pounding on the table in front of that management quite suddenly. I would not care whether it was colored or Chinese or Irish or Dutch, or whatever it was. The fact of the matter is the company was getting a bulge on the workers by setting up a false classification and getting the job done by cheap labor.

Mr. POWELL. I agree with that, except for the fact that in your union and the CIO, if that happened there, the Negroes would have the right to become union members and to get a chance at these jobs.

Mr. BURKE. Yes.

Mr. POWELL. We agree on that. I think it was reprehensible that back in the early days of the labor movement Negroes were used as scabs and as strikebreakers. It was done at that time because Negroes did not have a chance to join the union. Today, with an opportunity to join unions, they no longer have strikebreakers and scabs among the Negroes.

Mr. JOHNSON. I would like to go a little bit further into this, because there have been some statements made for the record that I think should be cleared up and a little more information given the committee through the hearings.

I want to further say when I went to work on the Beaumont division as a conductor all the colored brakemen were getting the same rate of pay as they were paying the white brakemen on the main line of the Gulf, Colorado & Santa Fe. I cannot quite understand why the statements have been made here that the unions are trying to discriminate against the colored trainmen and firemen. The way I look at it, Congressman, it is just the opposite, and if we had not been active to the extent that we have been, in all probability they would be working for less wages than they are making today. That is a matter of record.

Mr. POWELL. What you are pointing out is one brotherhood, whereas we are talking about all the railroads in the United States.

Mr. JOHNSON. I am talking about all of them.

Mr. POWELL. You are just talking about the Beaumont section.

Mr. JOHNSON. No; I am talking about all of them.

Mr. POWELL. No; you are wrong about that.

Mr. JOHNSON. Now wait a minute. Let us go back to the 1910 agreement that has been mentioned here quite a bit, and read into the record what is incorporated in some of the agreements, if not all of them, on the southeastern railroads.

This is the C. N. O. & T. P. Railroad agreement—a part of the Southern Railroad. The same appears in all of their working agreements.

Percentage of colored employees. No larger percentage of Negro trainmen or yardmen will be employed on any division or in any yard than was employed January 1, 1910.

Mr. POWELL. That does not mean anything.

Mr. JOHNSON. Yes; it does. Just wait a minute and let us see whether it does or not. In 1910 you had a certain number of colored men employed on that railroad.

Mr. POWELL. Yes; go ahead.

Mr. JOHNSON. Do you mean to argue that they should have taken the white men out and put the colored men in? That is all the colored help that there was there on January 1.

Mr. POWELL. But your agreement does not say that that percentage should be maintained.

Mr. JOHNSON. Let us wait a minute. It says:

If on any roads this percentage is now larger than on January 1, 1910, this agreement does not contemplate the discharge of any Negroes to be replaced by whites, but as vacancies are filled or new men employed whites are to be taken on until the percentage of January 1 is again reached. Negroes are not to be employed as baggagemen, flagmen, or yard foremen, but in any cases in which

they are now so employed they are not to be discharged to make places for whites, but when the positions they occupy become vacant, whites shall be employed in their places.

Now wait a minute. That is just in those three groups. Now here is the clincher:

Where no difference in the rates of pay between white and colored employees exist, the restrictions as to the percentage of Negroes to be employed does not apply.

So what happened in 1917? Under Federal control, when the heads of these labor organizations went to the Director General of Railroads and insisted that he apply the rate to the colored the same as the white, he handed down Supplement No. 12 to General Order No. 27.

Mr. POWELL. All wages were equalized?

Mr. JOHNSON. Sure; but did he discriminate against the colored?

Mr. POWELL. What is now the percentage on those railroads that you have just mentioned, covered by that agreement?

Mr. JOHNSON. It cannot go below what it was in 1910, but on railroads where the pay is equal, that agreement does not apply.

Mr. POWELL. I want to correct you. You are wrong. That is your fundamental mistake, because your agreement does not say they cannot go below; your agreement says they cannot go above.

Mr. JOHNSON. It says it cannot be maintained.

Mr. POWELL. It says they cannot exceed a certain percentage. You do not have a floor to how low it can drop.

Mr. JOHNSON. But under that agreement, where the rates are the same, this percentage agreement does not apply. It did not apply in 1910.

Mr. POWELL. The rates are all the same now.

Mr. JOHNSON. It did not apply on the Beaumont division.

Mr. POWELL. We are not talking about that; we are talking about the whole railroad industry.

Mr. JOHNSON. All right, let us talk about the whole railroad industry. Now if there is any discrimination so far as the Santa Fe Railroad is concerned, the Gulf, Colorado & Santa Fe Railroad, it is against the whites, because they cannot hire white brakemen, and they had the jobs at one time.

Mr. POWELL. You have misconstrued your own formula.

Mr. JOHNSON. No, no.

Mr. POWELL. Oh, yes. The formula that you just read said it can never be more than a certain percentage, but your formula does not guarantee that the percentage in 1910 would hold now. I don't believe in percentages. There are not as many Negroes working in those various capacities now as there were in 1910, and that is the simple fact. Is that true?

Mr. JOHNSON. I don't know. On some railroads there may be more now than in 1910.

Mr. POWELL. I know that is not correct, and we can produce facts on that.

Mr. JOHNSON. The over-all percentage, Congressman, on all railroads, the bulk of them are in the Southeastern Territory.

Mr. POWELL. Did not the Supreme Court upset the Southeastern carriers' agreement?

Mr. JOHNSON. I don't think so.

Mr. POWELL. Yes, the Supreme Court upset the Southeastern carriers' agreement, I believe it was in 1944.

Mr. JOHNSON. It might have been.

Mr. POWELL. No, no; let us not say "might." In 1944 the United States Supreme Court ruled that the Southeastern carrier's agreement was discrimination against Negroes, and ruled it out of order, and Tunstall came along later in the Supreme Court and got damages. You are misconstruing your own formula, Mr. Johnson. Your own formula does not give Negroes the jobs today that they had in 1910. Your formula places a ceiling but not a floor.

Mr. JOHNSON. Doesn't it say it will be maintained? What does it say there, Congressman Brehm?

Mr. BREHM. This one sentence seems to be clarifying. It says this:

But as vacancies are filled with new men employed, whites shall be taken on until the percentage of January 1 is again reached.

Mr. JOHNSON. That is right.

Mr. BREHM. That is almost the floor. The first sentence states so, as the chairman says, it says "no larger percentage," but when you read that next line it says that they shall be taken on until they again reach that percentage. That is guaranteeing the floor, if I can read the English language.

Mr. POWELL. The simple fact, Congressman Brehm, is that despite that formula there are not as many Negroes working on the railroads as were working on them in 1910.

Mr. BREHM. I am against discrimination, you know that, of either whites or Negroes.

Mr. POWELL. I just want to show you one thing, Mr. Johnson. In 1928, after wages were equalized between Negroes and whites, your brotherhood made an agreement with the Frisco Railroad not to hire any more Negro trainmen. They just threw the formula out the window.

Mr. JOHNSON. That was in 1928. I would like to comment on that a little bit, too.

Mr. POWELL. They entered into an agreement with the Frisco Railroad not to hire any more Negro trainmen, despite the fact that they had this formula; is that true?

Mr. JOHNSON. They had that agreement in 1928.

Mr. POWELL. Thank you.

Mr. JOHNSON. All right, but there is a little history attached to that, too.

Mr. POWELL. Maybe there is. There is history attached to anything. I am pointing out you threw your agreement out the window when you made an agreement with the Frisco Railroad not to hire any more Negroes.

Mr. JOHNSON. One of the factors in connection with the 1928 agreement, Congressman, was a jurisdictional dispute between the brakemen and porters. In other words, the Frisco Railroad was trying to get the porter to do the brakeman's work at a lesser rate of pay.

Mr. POWELL. No, I am sorry, the wages were equalized then.

Mr. JOHNSON. For brakemen, colored brakemen, not for porters. The porter carries one rate and the brakeman carries another.

Mr. POWELL. The porter in charge got the same salary as the brakeman. "The porter in charge." You see, there is a difference, Mr. Johnson, between "porter" and "porter in charge." A porter is just a porter who takes care of the berths and the cleaning of trains, but the porter in charge was the one who did the identical work of the brakeman and got the brakeman's salary.

Mr. JOHNSON. Then he was a brakeman because that was his classification.

Mr. POWELL. The classification was a porter in charge because he was a Negro, and he got the brakeman's salary, and your organization made the agreement with the Frisco that porters in charge, Negro trainmen, would be replaced by whites in 1928.

Mr. JOHNSON. That was back in 1928, but that agreement over there was the result of mediation. You had that question there with respect to the brakeman and porter, and they had a lot of their unsettled grievances which they could not settle individually, and they invoked the services of the National Mediation Board under the Railway Labor Act of 1926, and they accepted jurisdiction, and former Governor Morrow, of Kentucky, who was then a member of the National Mediation Board, took charge, and it was under the recommendation of Governor Morrow that the 1928 agreement was entered into on the Frisco Railroad. That involved this jurisdictional question, and it also involved a lot of unsettled grievances.

Mr. POWELL. And why would not the grievances be unsettled when the Negro trainmen could not have anyone to present their grievances to? When the Negro trainman went before the National Mediation Board he found sitting there the same men who would not let him into the union.

Mr. JOHNSON. All right; we want to talk about that a little bit, too.

Mr. POWELL. So let the record stand right there that in 1928 your brotherhood, despite this formula that you mentioned, replaced Negro trainmen with white on the Frisco Railroad.

Mr. JOHNSON. And if we signed it, we will stand by it.

Mr. POWELL. That is why I am saying that your standing behind it is reprehensible trade-union action on your part.

Mr. JOHNSON. That is your opinion.

Mr. POWELL. No; it happens to be the opinion of the Secretary of Labor who endorsed the bill, and the Secretary of State, Mr. Acheson, and a great many of the people of this Nation who believe in a democracy and not in the policy of "whites only."

Mr. JOHNSON. I don't think that we violated any law, or anything like that, and I think if you go back and make a thorough check and get down into the innermost part of these disputes that have been discussed here in the last 2 days, to my knowledge, you will find that the organizations are not trying to discriminate against the colored, that they are trying to protect them.

Mr. POWELL. Why has the Supreme Court ruled against the brotherhoods every time they came before them?

Mr. JOHNSON. I don't think we have been before them on any of those matters.

Mr. POWELL. You haven't been over in the Supreme Court?

Mr. JOHNSON. No.

Mr. POWELL. Yes, you have. You ought to know your facts a little bit better.

Mr. JOHNSON. What case is it?

Mr. POWELL. Will you cite the cases, Mr. Houston?

Mr. HOUSTON. Not the conductors. Mr. Johnson is representing the conductors.

Mr. POWELL. I thought this was the locomotive enginemen.

Mr. JOHNSON. I haven't been over there. I know this: I know that the labor organizations are recognized as fraternal organizations and the Supreme Court has ruled that fraternal organizations have a right to select their members.

Mr. POWELL. The brotherhoods ought to make up their minds. If they are fraternal organizations then they should not claim any union rights.

Mr. JOHNSON. We have never gotten away from that. We are classed as fraternal organizations, and we operate under the fraternal codes, so far as our insurance department is concerned. While we have a life-insurance system in our organization, we still operate under the fraternal code.

Mr. POWELL. Then you are not a trade-union?

Mr. JOHNSON. Sure we are, but we are classed as a fraternal organization, and the Supreme Court ruled that a fraternal organization still has the right to select its members. That is the point I make.

Mr. POWELL. But the Supreme Court also ruled that the brotherhood did not have the right to discriminate. It did not rule on your brotherhood, but it did on the other three brotherhoods.

Mr. JOHNSON. I don't think you can find that we have discriminated.

Mr. POWELL. The Supreme Court has not ruled on that. The fact that you have discriminated against Negroes becoming members, and that, to my mind, is discrimination.

Mr. JOHNSON. That is your opinion.

Mr. POWELL. And that is the opinion of the majority of the people of this Nation.

Mr. JOHNSON. I don't know about the majority.

Mr. POWELL. Well, we know how to find out, and that is by seeing who was elected President of the United States, and one of his planks was the FEPC.

Mr. BREHM. I don't think that election meant that we would have an FEPC tomorrow. That is going too far.

Mr. JOHNSON. There never have been any Negro conductors so far as I know, and therefore we have no discrimination controversy.

Mr. POWELL. That is ridiculous.

Mr. JOHNSON. I mean in our organization.

Mr. POWELL. It is ridiculous for you to even state that before intelligent people.

Mr. JOHNSON. What is that?

Mr. POWELL. That you do not have any discrimination, and you have a constitution there that says "for whites only."

Mr. JOHNSON. That is in selecting membership to our organization. We apply it to some sorry whites too, you know.

Mr. BREHM. I think on this question of discrimination there is a lot of discrimination, because I have seen signs up "Members of the B'nai B'rith only," "For colored folks only," and so forth. If you

come right down to it, what is discrimination? It is a question in your own heart, it seems to me, in your own conscience. I think you are going to have a hard time legislating against anything like this. You cannot legislate prejudice out of a man's heart or his conscience.

Mr. JOHNSON. You cannot legislate to make people love one another.

Mr. POWELL. Prejudice you cannot legislate because it is the attitude of one's mind and heart, but discrimination is an overt act. Prejudice you cannot legislate against, but discrimination becomes an act, and it is the duty of the Government always to protect its citizens against any overt act.

Mr. BREHM. It says over at the congressional dining room, "For Members of Congress only." Is that discrimination?

Mr. JOHNSON. I will say this, Congressman, for the record, that we feel every man has a right to work and to earn a living. He has a right to a good home, he has a right to good medical attention, good schools, good churches, good wholesome recreation for himself and his family, but regardless of whether he is white or black, there are certain responsibilities that are his, that he must accept and discharge. I think that philosophy was taught by Booker T. Washington who, in my judgment, did more for the colored race than any other man that ever lived. I think he did more to take off the shackles of economic slavery from the colored man than any man that ever lived.

There are some people who talk about discrimination and all of these things. I think people who have lived in the Southland are in a position to testify against some of the statements that have been made. I really believe that if a canvass could be made of the colored people south of the Mason-Dixon line tomorrow, a vast majority of them would be opposed to some of the things that are being advocated by certain people in this country.

I say that with all sincerity, and I have a lot of friends down there who do think a lot of me.

Mr. POWELL. I disagree with you, but that is not apropos.

Mr. JOHNSON. I want to go back to 1914 agreement that was referred to with the Gulf, Colorado & Santa Fe. You read out of the Trainmen's Journal yesterday where they complimented some of their officers on getting 14 more jobs for the white men on that division. That agreement was negotiated after the Santa Fe Railroad bought the old Gulf & Interstate Railroad that operated between Beaumont and Galveston and the trains were manned by white men, so in order to give them some consideration for the jobs that they formerly held on the Beaumont division proper, they gave them those jobs, and in addition thereto, 22 miles from Silsbee to Beaumont. That is now one division, and I think there are only about six of those jobs left, if I am correctly informed.

I have just one more thing here, and that is in reference to the Adjustment Board.

It is true that we have representatives on that Board from the five transportation brotherhoods, including the switchmen's union. I think that the colored man should appreciate that fact, for this reason: If we did not have men there who were familiar with the agreements in effect on the railroads and if there was not some restriction as to who will present cases to the Board, the first thing we would know we would not have any contracts.

Mr. POWELL. I agree with you.

Mr. JOHNSON. Therefore, in the submission of claims, the Board has ruled that there must be a clear interpretation of the rules involved in the agreement, involved in the claim.

Mr. POWELL. Mr. Johnson, I don't disagree with you; all I am saying is because of the fact that these representatives are on the Board, and they should be on the Board, if they are going to represent Negro workers, then Negro workers should have the opportunity to belong to the brotherhoods that elect the men who send the men to the Board; that is all. Otherwise, they have representation without the privilege of choosing them. That is the thing. I am a union man, as you know.

Mr. JOHNSON. But, Congressman, I think the majority of those men on the Board are off railroads where there are no colored men.

Mr. POWELL. That may be true, but there nevertheless is a considerable group of Negro men that ought to have representation on the Board.

Mr. JOHNSON. That is right; they do have. Supposing the claim goes in, we will say, on the Southern Railroad, involving a brakeman, and it is handled by the general chairman of the white brakemen on the Southern Railway; well, when that award is handed down by the Board, if the claim is sustained, then it applies to every brakeman on the Southern Railroad, be he either white or black. So he is protected there through the operation, and they police that contract and force the railroad to apply the contract to the colored man the same as to the white man.

Mr. BREHM. That is an awfully good point.

Mr. POWELL. I agree with you, but I say since that is true the Negro workman should have an opportunity to participate in the organization that elects those men to go to the Board.

Mr. JOHNSON. I grant you that is true from the moral standpoint, but I say they could not obtain a bit more service than they are obtaining now, even if they are granted that.

Mr. POWELL. The fact is that there may be people to choose from who are maybe more sensitive to their needs.

Mr. JOHNSON. I dare say that on the Southern Railroad, or any of these other southeastern railroads, where the colored man is employed, if they were violating an agreement all you would have to do is to go and say to the general chairman of the Brotherhood of Railroad Trainmen, or the Order of Railroad Conductors, "Here is what they are doing down here," and they would see that it would be discontinued.

Mr. POWELL. Why should not they have a right to participate in the selection of that general chairman?

Mr. JOHNSON. You take the percentage of men, Congressman, and you can go back to the peak, if you want to, it would be very small on the railroads.

Mr. POWELL. You are talking about the railroad conductors.

Mr. JOHNSON. I am talking about the trainmen. You take the Southern Railroad at the peak, or the L. & N., or any of the other southeastern railroads—

Mr. POWELL. At the peak it used to be very considerable.

Mr. JOHNSON. They might have had more, but as an over-all picture the percentage would be very small. I don't know. Maybe Mr. Houston knows. I have no idea how many colored trainmen or firemen there are.

Mr. POWELL. At the peak.

Mr. JOHNSON. Take it as of today.

Mr. POWELL. Do you know the number of Negroes that used to be on the railroads?

Mr. HOUSTON. The majority, practically all were firemen.

Mr. POWELL. At what time were the majority of firemen Negroes?

Mr. HOUSTON. On the southeastern railroads. They had a very substantial proportion of trainmen, but I could not give you an answer on that.

Mr. JOHNSON. I want to make just one more point, Congressman. I want to clear it up here. Mr. Houston made mention of the sleeping-car porters. It is true that the sleeping-car conductors merged with the Order of Railroad Conductors. They have their own set-up, so far as handling their labor matters is concerned. Now the agreement was reached in 1945 where a two-car operation would be manned by a sleeping-car conductor. We were only claiming for the sleeping-car conductor work that rightly belonged to him. But they still man, as I understand it, one-car assignments. So that is not taking away from anyone the right of service other than saying that a conductor would be assigned to handle the transportation where there is a two-car pullman assignment.

Mr. POWELL. You see, in the matter of the Brotherhood of Sleeping Car Porters there is no limitation of race, as you know. There are Filipinos and Canadians. Most of the Canadian Pacific cars are manned by white porters.

Mr. JOHNSON. I did not know that.

Mr. POWELL. That is a real brotherhood. That is a brotherhood in every sense of the word.

Do you have anything else?

Mr. JOHNSON. No; that is all.

Mr. POWELL. I want to thank you for coming.

Mr. JOHNSON. I hated to take up so much of your time, but there are some of these things that there is quite a bit of history attached to.

Mr. POWELL. Mr. Corbett.

TESTIMONY OF JOHN T. CORBETT, ASSISTANT GRAND CHIEF ENGINEER AND NATIONAL LEGISLATIVE REPRESENTATIVE, BROTHERHOOD OF LOCOMOTIVE ENGINEERS

Mr. CORBETT. My name is John T. Corbett. I hold the office of assistant grand chief engineer, and the national legislative representative of the Brotherhood of Locomotive Engineers. I have been requested by Mr. Alvaney Johnston, the grand chief engineer, to appear as the representative of the organization.

Mr. POWELL. Has your organization taken any position on the FEPC at all?

Mr. CORBETT. No, sir.

Mr. POWELL. Have you, in your constitution, a position for whites only?

Mr. CORBETT. Yes. May I go a little bit further? It is for white men, but it bars both white and colored women.

Mr. POWELL. Did you amend your constitution as yet the same as the railroad conductors did?

Mr. CORBETT. No, sir. We have our convention a year from this month.

Mr. POWELL. When was your last convention?

Mr. CORBETT. In March of 1947, the end of February or the 1st of March.

Mr. POWELL. In view of the fact that there are about 11 States, and today the State of Illinois has voted on the subject of State FEPC, and in view of the fact that there is before Congress a national FEPC, if they were advised of that at the convention, would your organization consider amending the constitution, as have the other brotherhoods to comply with any State or Federal regulation that might become a law?

Mr. CORBETT. It would be my understanding that the officers would probably recommend to the delegates that some action be taken.

Mr. BRENN. Your organization would not have any intention of breaking the law?

Mr. CORBETT. No, sir.

Mr. POWELL. If the bill became law, would you abide by it?

Mr. CORBETT. Our organization will follow all laws. We are the oldest of them and the best of them, and we want to continue to be the best.

Mr. POWELL. You are the best?

Mr. CORBETT. By far.

Mr. POWELL. The other three brotherhoods are not here. I don't think that is fair. What do you mean by the best?

Mr. CORBETT. Probably I am a little bit prejudiced—and I don't say this with a smile. I figure that the American locomotive engineer is the most expert workman in the world, that he takes the most responsibilities of any workman ever known in the history of the world, and that he delivers the product of that work more perfectly than any other individual in the history of the world has ever delivered it. He is the outstanding carrier. He makes riding on a train more safe than being at home. I am proud to represent them.

There is no restriction, because my organization does not approve anyone except the white man, there is no restriction made by the locomotive engineers that I know of on any railroad at the present time.

Mr. POWELL. Now where is that agreement? The first clause of it negates what you said.

Mr. HOUSTON. That is not an agreement. That is just a notice. The engineers at present have nothing to do with it.

Mr. CORBETT. Now, if I may add something. I want the record to show that all of these colored firemen who have been referred to, they were actually going to school, if you please, to be locomotive engineers. Those men came in knowing nothing about railroading. The principle on which railroads are operated is safety first, and no man coming off the farm, or from the cities or towns, or anything like that, realizes what safety on a railroad means.

Mr. POWELL. Whether he is Negro or white?

Mr. CORBETT. It doesn't matter whether they are white or black. The locomotive engineers in the Southeast have worked with those men and have educated them and, I know that Negro firemen please many of them. Some of them in Washington.

Mr. POWELL. But those firemen don't have a chance to become engineers.

Mr. CORBETT. I don't know whether they refuse to take enough interest in it to study for it or not. It is a decidedly stiff bunch of examinations that, when I took them, took practically all of a week, both written and verbal.

Mr. POWELL. The reason why I ask you that question—and I want to always apologize for leading questions—is that yesterday some of those firemen were here, men with 30 years' experience, and they said through Mr. Houston, that they were willing to take examinations to be engineers even though they might fail so that by so doing they would be able to pave the way for their sons and nephews who would come along with a better technical educational atmosphere to take those examinations and to pass them.

Mr. BREHM. As Mr. Houston pointed out, they wanted to get into line.

Mr. POWELL. Yes. There are men willing to take the examinations, even though they feel they are not ready to take the examinations.

Mr. HOUSTON. They are not permitted to take them.

Mr. POWELL. They are not permitted to do so.

Mr. CORBETT. That is not my organization, sir.

Mr. POWELL. If the FEPC were enacted in the law and they did allow them to take examinations and they did pass, what would be the position of your organization then?

Mr. CORBETT. In what way do you mean?

Mr. POWELL. Suppose qualified, educated Negroes took the rigid tests and passed them and were engineers, what would be the position of your organization then? Would your organization accept them?

Mr. CORBETT. I could not speak for the organization. You understand that our organizations represent about 1 delegate to 300 members. A large number of them are from the Southeast. The southeastern men are on all of the general committees, and we have a State legislative board in each of the States. Now I am not in a position to say as to what the delegate from the United States and Canada would vote. I believe I would be sustained in the belief that if the bill is passed and becomes a law my organization is not going to violate that law.

Mr. POWELL. If you left New York City and you were to go on right through New York, Connecticut, Massachusetts, you would be passing through States that have FEPC laws on that run.

Mr. CORBETT. I am not informed on the laws to any great extent.

Mr. POWELL. The New York States law is about the same as this, and the Massachusetts State law, I found out this morning from the Commissioner of Massachusetts is not much different, so these laws are operating now in these States. It seems to me a very wise thing would be for your union to change its constitution, as the Order of Railway Conductors, to abide by the laws that are now in existence in 11 States, and maybe now in Illinois, in 12 States.

Do you have any questions, Dr. Brehm?

Mr. BREHM. No.

Mr. POWELL. Thank you ever so much for coming.

Mr. HOUSTON. Mr. Chairman, could I have a word to say concerning the Railroad Adjustment Board, because it is very important that the thing be cleared up.

Mr. POWELL. Yes; you may go ahead.

Mr. Houston. The statement was made that the Negro railroad worker gets everything out of the present set-up of the Adjustment Board. That is absolutely not true. The very requirement that a Negro must come through the general chairman of the organization, of the union which is putting in the discriminatory provisions before the Board which has on it representatives of members from the same organization poses a situation in which it would be impossible to get justice. Now what happens is it is true that wherever there is a conflict between the management and the worker the union will represent the Negro against the management, so that the contract is protected, that is true, but where it is a question of a job in the interest of the two workers, the union member and the Negro, they refuse to represent the Negro.

In the Steele case which went up to the Supreme Court of the United States, Steele requested the Locomotive Firemen and Engineers to take this case to the Adjustment Board. They refused; they said they did not want to represent him.

The engineers, about 1937, took over the representation of the Negro firemen on the Gulf & Ship Island Railroad, where the Negro firemen were getting substandard wages. The engineers got the Negro firemen standard wages, and then immediately put in a clause that 10 engineers should have higher rights regardless of the seniority of the Negro firemen. They have been fighting that ever since. The company refused to abide by it and the engineers went to the Adjustment Board to get a decision. The Negroes tried to intervene before the Adjustment Board and they would not let them intervene. We are not permitted to intervene. The Colored Trainmen of America on the Gulf Coast Lines, St. Louis, Brownsville & Mexico, tried to intervene in a dispute brought by the railroad trainmen, and they were refused permission to intervene.

Mr. BREHM. Were you talking about benefits?

Mr. Houston. It does not benefit us, sir, when we cannot intervene and be heard and present our case. It certainly does not give us any benefit when we cannot be heard when our interests are in conflict with the interest of the white union men. We are only given the benefit when the conflict is essentially a conflict between management and workers and the decision in the Negro's case will affect and be of benefit to all of the workers in a craft or class, for establishing a uniform interpretation of the contract.

I agree with you that there we get the same benefit. I also agree, of course, with what has been said before. It is unfortunate that we had to be used as strikebreakers. That is what we are trying to eliminate by fair employment practices.

Mr. CORBETT. May I make a remark?

Mr. POWELL. Yes, you may.

Mr. CORBETT. I have the fourteenth annual report of the National Mediation Board, including the report of the National Railroad Adjustment Board, and I wish to direct attention to the fact that on the Florida East Coast Railroad Co. the firemen are represented by the International Association of Railway Employees, Locomotive Firemen, Hostlers and Hostler Helpers, who I believe are Negroes.

Mr. Houston. That is right, sir. That is only one road.

Mr. POWELL. The only road in the country.

Mr. HOUSTON. That is only one road out of all the other first-class railroads in the country. That simply proves the point. It is the exception which proves the rule.

Mr. POWELL. That is on one railroad.

Mr. HOUSTON. That is right.

Mr. BREHM. The point I think that Mr. Johnson was making—I am sort of confused now—was that here we have a board composed of experts in their field.

Mr. HOUSTON. Yes.

Mr. BREHM. Men who are in there battling to interpret the law as they see it, and when they render a decision certainly anyone affected would get the benefit of the decision, regardless of whether they could appear or whether they could not appear. That is the point that I got from Mr. Johnson.

Mr. HOUSTON. Let me put this situation to you, Mr. Congressman: The Negro train porter you heard about—and the question was raised by the other Congressman—as being a misclassification has been doing all of the braking work. He is not given the classification, nor is he given the pay, because he is a Negro. Now, the Brotherhood of Railroad Trainmen has been trying to get those functions away from him. Management has not agreed to it. One reason, obviously, is that management is getting two men's work done for one man's pay because it is getting the porter's and the brakeman's work done for less than they would pay one white brakeman. Therefore, the Brotherhood of Railroad Trainmen went to the first division of the National Adjustment Board. The Negro train porters tried to intervene, but the Negro train porters were not permitted to intervene, and the Adjustment Board went ahead and ruled that the work belonged to the brakemen and did not belong to the train porters. That is certainly not giving us justice. I don't want the record to show that the Adjustment Board does give us justice under those circumstances.

Mr. JOHNSON. All these cases are not subject to the jurisdiction of the National Adjustment Board.

Mr. HOUSTON. Why did they bring it?

Mr. JOHNSON. They did it for the trainmen. You had men doing a brakeman's work for less than a brakeman's pay. It is only contractual matters that are subject to submission to the Adjustment Board, not jurisdictional disputes.

Mr. HOUSTON. No; not in that sense, but in the sense that here is a question as to whether under their contract they are entitled to that work, and there the proposition is they were not even permitted to intervene and submit their contract before the Board, to show they were doing the work under the contract.

Mr. POWELL. They were not permitted to intervene?

Mr. HOUSTON. They were not permitted to intervene.

Mr. JOHNSON. No; because the porter had no right to intervene. It was a trainman's case.

Mr. HOUSTON. Let me also say that the court of appeals decided, in *Hunter v. Atchison, Topeka & Santa Fe Company*, that the same Adjustment Board exceeded its jurisdiction and acted without due process of law in rendering that decision. That is in 173 Fed. 2d.

In theory the Board is set up as a board of experts with equal representation between the carriers and labor, both of them experts in their

field handling very complicated contracts which cannot be interpreted normally by a court. By having one expert body you get uniformity of decisions in the interest of the uninterrupted flow of commerce. As I said, I subscribe to the organization of American industry; the only thing I do not subscribe to is the fact we are not taken in like every other citizen. The only point it breaks down into is where you have a Negro coming up and presenting a claim that is a threat to a white union worker. At that point the whole thing breaks down. Outside of that I think the Adjustment Board is a fine thing.

Mr. JOHNSON. What was the decision of the court in the Sante Fe case involving the porters?

Mr. HOUSTON. The decision was that the award of the Adjustment Board could not be enforced against the porters on the grounds it violated due process of law in that the porters were not given the opportunity of notice of hearing.

Mr. JOHNSON. What is the porter doing now?

Mr. HOUSTON. The same thing.

Mr. JOHNSON. He is getting a porter's rate of pay for the services he performs, isn't he?

Mr. HOUSTON. He is, and he should get the brakeman's rate of pay.

Mr. JOHNSON. If he is going to do that work, then it is brakeman's work.

Mr. HOUSTON. Then why do not the brakemen go in there and say, "Give this man the brakeman's pay," instead of taking the job away and giving it to a white brakeman?

Mr. JOHNSON. Because he has seniority as a porter. He was not employed as a brakeman in the beginning, he was employed as a porter, and then he tried to get certain seniority as a porter to apply to a brakeman.

Mr. POWELL. Once a porter, always a porter, especially if he is a Negro?

Mr. HOUSTON. The theory is when a white man does conductor's work, he is a conductor; when a white man does a brakeman's work, he is a brakeman; when he does a fireman's work, he is a fireman; or when he does engineer's work, he is an engineer; but because we are black, as you say, we cannot be brakemen.

Mr. JOHNSON. I think you have got the wrong view on that.

Mr. POWELL. The committee will adjourn now. Tomorrow morning we will hear the American Federation of Labor, the National Association for Advancement of Colored People, the American Civil Liberties Union, and representatives of the National CIO will also be present as regards the statement brought before us by representatives from Bessemer, Ala.

(Whereupon, at 5 p. m., the committee adjourned until 10 a. m. of the following day, Thursday, May 10, 1949.)

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

THURSDAY, MAY 19, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Adm C. Powell, Jr. (chairman), presiding.

Mr. POWELL. The committee will come to order.

Our first witness of the morning is Mr. Clarence Mitchell, labor secretary for the National Association for the Advancement of Colored People.

TESTIMONY OF CLARENCE MITCHELL, LABOR SECRETARY, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. MITCHELL. Mr. Chairman, the National Association for the Advancement of Colored People appears at this hearing for the purpose of reaffirming the all-out support its membership gives to Federal fair employment legislation. As the association's representative, I wish to thank the chairman for this opportunity to present our views. We urge that the committee give speedy consideration to H. R. 4453 and report it favorably.

I would just like to say for the record that it is a good thing that this bill, if passed, will bear the name of the chairman.

On April 11, 1949, the association's board of directors voted to make the passage of an FEPC law the No. 1 objective in our legislative program. This was not an easy choice because all civil-rights bills are of great importance. Through the years, we have been fighting for a Federal antilynching bill, the abolition of Jim Crow, and segregation in all forms, and the end of unfair restrictions on the use of the ballot.

However, we recognize that when the Senate revised its rules on March 11, 1949, there was created an opportunity for great deception. The sponsors of the new rules have been telling the public that the change would put an end to filibusters. We believe that the rules as revised make most difficult the passage of constructive legislation in the civil-rights field. Since there are some who say that the revision is not designed to destroy the civil-rights proposals, we believe that a test of the effectiveness of the rule should be made on the bill which will have the most far-reaching effect, if it succeeds.

As an illustration of the virulence of job discrimination, we offer Salt Lake City, Utah. No lynchings have taken place in the State of

Utah in recent years. There is no restriction on the right of the colored people to vote. There is no segregation in public transportation. In the job field, however, the story is quite different. The Salt Lake City Council on Civic Unity recently made a study of limitations affecting minority groups. On the employment question, the council had this to say:

Sixty-one of one hundred and sixty-seven employers who responded to a questionnaire excluded colored citizens from certain types of employment. Forty-seven out of one hundred and sixty-two employers said they were unwilling to give colored citizens the same seniority rights as other citizens. Twenty-seven out of one hundred and seventy-eight employers were unwilling to pay the same wages to colored people, even though the colored employees have equal skills with whites.

If this sample is fair, it means that somewhere between one-third and one-half of the State's employers freely confess that they are not willing to extend equal pay for equal work or equal rights of seniority to colored people.

The Fair Employment Practice Act will strike at job discrimination in in the North and the South. We are certain that if it passes, other legislation in the civil-rights field will also have an excellent chance for passage. Public sentiment strongly favors the principles which this legislation supports. The need for it is so clear that we do not think it necessary to make an extensive documentation of the problem at this time.

If any Member of Congress wishes to get a practical illustration of how badly an FEPC law is needed, he has only to board a streetcar or bus operated by the Capital Transit Co. in the District of Columbia. Since Pearl Harbor, this company has brazenly advertised for platform workers, but insists that these workers must be white. It is unlikely that there will be a change in the hiring practices of the Capital Transit Co. without fair-employment legislation.

As a further opportunity to make a first-hand check, we offer the telephone company of this city. A young colored girl who was an experienced telephone operator came to Washington from Atlantic City. The telephone company began hiring colored operators in New Jersey when the State FEPC law was passed. When she sought employment with the Chesapeake & Potomac Telephone Co. as an operator, she was given every assurance that she could be used. Then, as now, the company was daily advertising for help.

With your permission I would like to insert in the record an ad, which came from the Washington Post of today, by the telephone company asking for help.

Mr. POWELL. Without objection, it is so ordered.

Mr. MITCHELL. Thank you.

(The ad referred to is as follows:)

GIRLS

THE TELEPHONE CO. HAS OPENINGS NOW
APPLY EMPLOYMENT OFFICE, 918 G ST., N. W.
OPEN 8:30 A. M. TO 5 P. M. MONDAY THROUGH FRIDAY
THE CHESAPEAKE & POTOMAC TELEPHONE CO.

Mr. MITCHELL. However, when she reported and it was found that she was not white she was offered a job in the cafeteria. Later in conference with NAACP representatives, the company officials said that they would offer her a position in a segregated set-up on a job which was not comparable to that which she sought.

This policy of the telephone company in Washington has the full approval of the national office of the American Telephone & Telegraph Co. Although A. T. & T. has made progress in some of its subsidiaries, it has chiefly moved only in areas where fair employment practice legislation was planned or was actually in effect. In a few cases, management has acted on its own initiative, but, in the main, it has required legal persuasion to get this company to offer jobs on a democratic basis. The telephone company still flagrantly discriminates against colored applicants in most of the States of the Union.

We wish also to cite as an illustration of poor employment practices the Sears, Roebuck Co. of Chicago. Reports from our branches in Chicago, Cincinnati, Pittsburgh, and Philadelphia show that the company discriminates against colored persons who seek jobs as clerks. In Santa Monica, Calif., the president of our branch joined with other citizens in seeking to have colored persons employed at a new Sears store which was being opened in that city.

The local management advised that the question of employing colored persons was a policy matter which had to be determined by the national headquarters. The national headquarters advised the NAACP that the question had to be determined locally. This is typical of the buck-passing which occurs in many large companies on the issue of fair-employment practices.

Even during the war when manpower shortages were most acute, colored persons were concentrated more heavily in unskilled categories than in other types of work. While they were 12 percent of the unskilled nonfarm labor force in 1940, according to the Bureau of Labor Statistics, they were 28 percent of the unskilled nonfarm labor force in 1944 and 1947. The Bureau also states that employment of colored persons as skilled craftsmen and foremen has declined since the war, although there have been significant increases in the proportion of craftsmen and foremen among white persons.

The hard fact is that most of the occupational changes that took place for colored people during the war were in those munitions industries which experienced the most severe cut-backs after the war. Also the principal job-training barriers which were relaxed during the period of armed conflict were in those forms of instruction which were short cuts in preparing men and women for war work. There has not been a substantial change in the discriminatory patterns which affect apprentice training. As you gentlemen of the committee know, such training is the basic preparation for skilled jobs.

The NAACP recently requested a few of its branches, in widely separated areas, to give a brief report on the employment practices of some of the large companies in the country. We received replies from 21 cities. The branches were asked to report on two important points:

(1) We wanted to know whether the companies employed colored persons on skilled jobs.

(2) Where the companies offered apprentice training, we wanted to know whether colored people were admitted.

We received usable reports on 51 firms in 18 States. These firms employ a total of 114,329 persons. Only 11 of these companies employ colored people on skilled jobs. Of all of the firms reporting, 20 have apprentice-training programs, but only 5 will admit colored persons to such training.

We present to this committee some of the comments sent in by those who reported.

(1) Mr. Nicholas Topping, chairman of the NAACP's labor and industry committee in Milwaukee, Wis., reports the following:

The Allen Bradley Co. employs 2,200 persons but no colored individuals. Colored persons have applied in the last 6 months, some with skills and ability, only to be denied jobs because of the company's discriminatory policy. The United Electrical, Radio, and Machine Workers, CIO, local 1111, has tried to get the company to remove restrictions each time a new contract has been drawn up but has met with no success.

The Schlitz Brewing Co., which hires 8,000 persons, does not have a single colored person on its pay roll. The same is true of the Blatz, Pabst, and Miller brewing companies.

Now, Mr. Chairman, I know you are a minister and I don't suppose you drink beer, but I presume there are some men who do. I would just like to make this suggestion, that every time a member drinks a bottle of Schlitz, or Pabst, Blatz, or Miller beer it will serve as a reminder of two things: First, it will indicate that there is discrimination, because these companies don't employ colored people, and, second, it will show the futility of a fair-employment-practice law without teeth, because in Wisconsin there is a fair-employment-practice law, but it has no enforcement power, and all it does is educate, and it can't even educate the brewers.

(2) Dr. J. M. Tinsley, president of the Richmond, Va., NAACP, sent in the following on his city:

In the du Pont factory here colored persons are limited to certain jobs. On some of the jobs colored and white persons do the same kind of work, but the white persons are paid a difference of 28 to 43 cents more than colored. In the Liggett & Meyers tobacco plants colored people hold skilled jobs, but such positions are called "key jobs" to keep from paying colored employees wages at the skilled rates. The colored workers are not allowed to operate machines, and the maximum paid the white workers is 15 cents more than the maximum paid colored workers.

(3) Mr. C. L. Harper, president of the Atlanta, Ga., NAACP, made this statement:

The General Motors Co. in this city employs 3,000 persons, but only 200 are colored. About 200 colored veterans with skills have applied for work but have been refused jobs because of their race. All positions on the assembly lines are manned entirely by white persons. The Ford Motor Co., with 2,300 employees, hires approximately 30 colored people. None are used on skilled jobs. This company has also refused to employ colored veterans who have skills.

The Southern Bell Telephone Co., which has about 4,000 employees, refuses to use colored veterans who have served as linemen in the Army. There are about 150 colored persons working for this company.

(4) Mrs. Lulu White, executive secretary of the Houston, Tex., NAACP, said:

In the Hughes Tool plant 4,000 persons are employed. Although there are 900 colored people working on 75 different types of work, there are 200 jobs from which colored persons are excluded by "tradition, social custom, and practice." On the other hand, in the Houston Meat Packing Co., colored and white persons have worked together for many years. Our attention was directed to a white man who has been with the company since 1897. He works side by side with Negroes and other white individuals. All of them receive the same pay for the same work. Many of them are skilled. There are 15 or 20 colored persons who have worked for this company for 35 years.

Mr. Chairman, I would like to pass over to members of the committee, to look at, a contract which was drawn up in 1930 by the Hughes

Tool Co. with the Employees Welfare Organization, which provides, on page 1, the following:

The minimum beginner's wage for semiskilled white men is 45 cents per hour; for unskilled colored men, 40 cents an hour.

Mr. POWELL. Is this a company union?

Mr. MITCHELL. That is. I wanted to explain what happened. That contract was in existence when the Steel Workers of the CIO sought to organize that plant. They were successful in organizing it and they carried on a fight to eliminate wage differentials and other things that were wrong in the Hughes Tool plant, but because of their activity they lost the contract down there. The company now has another company union and they are discriminating in the fashion that has been outlined in Mrs. White's report.

Some Members of the Congress have appeared before this committee to oppose FEPC legislation on the ground that it would create confusion in industry in the South. We say that there would be no confusion, but, undoubtedly, those who have used segregation and discrimination in industry for the purpose of exploiting wage earners of all races would be confounded. Here and there in the South, we find plants such as that described by Mrs. White of Houston, where colored and white persons work together on terms of equality and good fellowship. There is little physical segregation in the actual performance of duties on the job in the South. Many companies pay low wages to white persons who are classed as skilled workers and give them colored persons as helpers. The skilled white worker and the colored helper frequently do the same thing but both are paid lower wages than they are entitled to receive.

To support this foul scheme of sectionally approved robbery, the opposition to FEPC manufactures false propaganda about the need to keep the races separate. We offer the South Carolina law in the textile industry as a crowning illustration of the malicious deceit of this system. This law provides that—

It shall be unlawful for any person, firm, or corporation engaged in the business of cotton textile manufacturing to allow or permit operatives, help, and labor of different races to labor and work together within the same room, or to use the same doors of entrance and exit at the same time, or to use and occupy the same pay ticket windows or doors for paying off its operatives and laborers at the same time, or to use the same stairways and windows at the same time, or to use at any time the same lavatories, toilets, drinking water, lockers, pulls, cups, dippers, or glasses.

This law provides a \$100 fine for such offense. The said fine may be recovered in a suit by any citizen in the county in which the law is violated.

Now, Mr. Chairman and members of the committee, one of the great objections that we hear to an FEPC resounding around the Halls of Congress is that it would turn loose hordes of investigators who would be spying on businessmen and prying into their personal affairs, but here in South Carolina, where some of the main opponents of FEPC are located, they have passed a law which says that every citizen is a member of a gestapo for prying and snooping and going around into the company's affairs.

Not only that, but they can go into court and receive \$100 for their trouble.

Mr. POWELL. You mean under the South Carolina law you do not have to be the aggrieved party?

Mr. MITCHELL. The only thing you have to be is the person who thinks it happened, and then you can go to court and the chances are you will collect \$100.

I have a copy of the South Carolina law which I want to give to you gentlemen. It seems to be on the first page. They have a way of putting these things on the first page so everyone will know how they feel as soon as they get down in their territory.

However, the statute also states that—

This section shall not apply to employment of firemen as subordinates in boiler rooms, or to floor scrubbers and those persons employed in keeping in proper condition lavatories and toilets, and carpenters, mechanics, and others engaged in the repair or erection of buildings.

Thus, under the South Carolina law, segregation is required in the textile industry only when colored and white persons may be performing a clean and desirable type of work together. This kind of law and the ruthless system of fomenting racial hates has made possible a condition in the South under which whites receive a wage below that paid to workers on similar jobs in the North.

According to the Bureau of Labor Statistics, in 1945 the per capita income in Southern States was \$797 or only 69 percent of the national average. We use the year 1945 in this illustration because it was a period of high employment.

Passage of a Federal FEPC law will require the united support of Democrats and Republicans in the Eighty-first Congress. It is clear that it will never pass unless that support is given. Newspapers, magazines, and radio commentators say that there exists a coalition in the Eighty-first Congress made up of southern Democrats and Republicans. This coalition is said to be formed for the purpose of destroying all liberal legislation. We do not make any charges at this time but we wish to remind the Congress that in a free country such as ours, the people believe what they read in the newspapers and what they hear on the radio. There are many who are convinced that this coalition has marked the FEPC for an early grave. Only passage of the legislation can dispel that belief.

We ask that you gentlemen on this committee from the Democratic Party use all of your powers of persuasion and work with great vigor to get the Majority Leader John McCormack from the State of Massachusetts to see that a vote is taken on this measure before Congress adjourns this summer. We say to you gentlemen from the Republican Party that Minority Leader Joseph Martin also from the State of Massachusetts holds a large part of the fate of the FEPC in his hands. It will not be enough if he votes favorably on this legislation when it reaches the floor. As the leader of the Republican Party in Congress, he must also accept the responsibility of fulfilling the pledges made by his party in the elections of 1944 and 1948.

When the people voted in November they did not vote for a program of obstruction and extreme conservatism. The one thing that is clear from the election of 1948 is the strong conviction of the great majority of voters that whoever was victorious had an obligation to move forward in the field of social legislation and not backward.

Let it now be said for the record that even if every Congressman from the South votes against FEPC, it can pass. It will not pass, however, if the present practice persists of watering down and killing civil-rights legislation by gentlemen's agreements.

In democracies the citizens are provided certain opportunities to tell the elected and appointed officials what they believe is necessary for the well-being of the Nation. These hearings provide such opportunities, and we speak for thousands of citizens who are looking to Congress to take action on the civil-rights program.

Since the fateful day on which the Senate voted to adopt its new rules, Walter White, the secretary of the association, Roy Wilkins, the assistant secretary, and many other officers of the association have spoken throughout the country at regional conferences, mass meetings, and State conferences of the 1,600 branches of the association. In all of these meetings the association's representatives have attempted to fix the responsibility for the failure to write the civil-rights program into law. Uniformly, the meetings to which we have spoken have had the effect of generating great public concern over the individual actions of those persons who represent the various States in Congress.

The people are no longer deceived by the mere holding of hearings and speech-making. They want to see these measures reach the floor for debate and consideration on their merits. They want to be able to pick up the Congressional Record and read what their Congressman has had to say on the floor. They also want to see how he voted and to match that vote against campaign promises. We should all be glad that Americans feel as they do, for in such citizens the spirit of democracy is strong, and in their keeping our institutions are safe.

We cannot forever postpone the granting of fair job opportunities to those who must work for a living. We cannot afford the tremendous waste of manpower which occurs daily in this country because of patterns of segregation and discrimination in employment. Action in this field is long overdue. In the name of the half million persons who are members of the NAACP, we ask this committee and the Congress to give the country a fair-employment-practice law in 1949.

Mr. POWELL. Thank you, Mr. Mitchell, for your very excellent statement.

Mr. BURKE.

Mr. BURKE. I have just one question, Mr. Mitchell.

You cited the Ford and General Motors plants in the South, in Atlanta, I believe it was.

Mr. MITCHELL. That is correct.

Mr. BURKE. You will find, I believe, generally, that the union is ready to cooperate.

Mr. MITCHELL. I am glad you ask me that question, sir, because I wanted to say a word about the spirit that exists in some of the unions today.

The United Automobile Workers, CIO, is an illustration of a union which is trying to do something about this problem. They have a fair-employment-practice committee, they have fair-employment machinery, and they have worked with us in many parts of the country to try to get things done, but unfortunately management opposes such action because it has realized when these people get together in one union, then neither group can be exploited.

In St. Louis, for example, we were faced with this problem at the Ford Motor Co. The UAW negotiated an agreement with the Ford Motor Co. which provides for upgrading of people without regard to race, but as yet the company has not put that agreement into effect.

Mr. BURKE. In other words, the use of the bidding system as part of the seniority set-up in that particular plant is now open to all regardless of race, creed, color or nationality?

Mr. MITCHELL. Under the terms of the contract, but the company will not live up to it.

Mr. BURKE. That is all.

Mr. POWELL. Any questions, Mr. Perkins?

Mr. PERKINS. I have nothing.

Mr. POWELL. Thank you, Mr. Mitchell, ever so much.

We will next hear from Mr. Lewis G. Hines from the American Federation of Labor.

TESTIMONY OF LEWIS G. HINES, NATIONAL LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF LABOR

Mr. HINES. My name is Lewis G. Hines. I am the national legislative representative, or one of the national legislative representatives for the American Federation of Labor.

Mr. POWELL. May we have the name of the gentleman with you, just for the record?

Mr. HINES. This is Mr. Peter Hanle in charge of our research staff.

I appear before you today on behalf of the American Federation of Labor to urge prompt enactment of H. R. 4453, a bill to prohibit discrimination in employment.

Last November, the American Federation of Labor convention unanimously endorsed a Federal law to end discrimination in employment. Since the resolution taking this action is short and indicates unmistakably the attitude of the Federation, I would like to quote it in full:

Whereas a Federal FEPC law is essential for the elimination of discrimination in employment relations based upon race, color, religion, national origin or ancestry, and since the right to work is tied up with the right to live, which is God-given: Therefore be it

Resolved, That the Sixty-seventh Convention of the American Federation of Labor assembled in Cincinnati, Ohio, November 1948, reaffirm its position of supporting the movement for Federal fair-employment-practice legislation and call upon the Eighty-first Congress to enact legislation for an effective Fair Employment Practices Commission.

This is not the first time that the American Federation of Labor has supported legislation against discrimination in employment. The A. F. of L. gave vigorous support to the wartime Fair Employment Practice Committee, and ever since has urged the establishment of a permanent FEPC.

The A. F. of L. position on this question is part of its long-standing tradition to bring the benefits of union organization to all workers, regardless of race, color, religion, or national origin. It is only fitting that an organization which was founded by Samuel Gompers, an immigrant Jew, and which owes its name to a motion made at its first convention by a Negro delegate, should espouse the cause of equality and justice for all.

About 10 percent of the A. F. of L. membership consists of Negroes. Many hundreds of thousands of A. F. of L. members are Jews. In fact, our entire membership is typical of the great melting pot of the many races and nationalities which constitute America.

Our aim is the organization of the unorganized, so that workers everywhere can attain higher living standards. In carrying out this

aim, the A. F. of L. is interested only in a man's job, not his color or creed.

The very nature of a trade-union, an organization in which men and women with completely different backgrounds have joined together, means that its aims can be achieved only by wholehearted cooperation of all its members. There is no room for any discrimination.

In the Federal labor unions which are directly organized by and affiliated with the American Federation of Labor each member upon joining pledges himself "never to discriminate against a fellow worker on account of creed, color, or nationality."

We recognize that the denial of equal job opportunities to any group of workers directly threatens hard-won standards of all workers. We know of far too many instances where unscrupulous employers have been able to forestall unionization by ranging one minority group against another to the detriment of all. Too many strikes have been lost because employers have been able to utilize as strike-breakers members of a minority group who were denied a decent opportunity for a job in everyday industrial life.

We know, too, that the payment of substandard wages to any group of workers represents a continual threat to the fair wage standards of all other workers. No standard for a fair day's work can long endure if there exists a large reservoir of workers who traditionally are paid below that standard.

Mr. Chairman, at this point I would like to read into the record several instances which indicate the position of the American Federation of Labor on this point.

Anniston, Ala., April 1946:

In negotiating a new contract in the Monsanto Chemical Co., the company's final offer included a 5 cents differential between white and Negro workers—50 percent of membership was colored. At the membership meeting the colored workers, accustomed to pay differentials in preunion days, moved to accept the offer. In lively debate the white workers argued that the company not be allowed to divide their union on the color line, and a request for strike vote was unanimously carried. The result—25-cent increase across the board and retroactive for 6 months, irrevocable; check-off, seniority clauses, and liberal sick leave and vacation clause for all workers regardless of race.

Atlanta, Ga., 1946:

The AFL Bridge and Structural Iron Workers spent \$200,000 in a bitter fight to organize 300 Atlanta iron workers of whom a large percent were colored. The employer tried to throw the wedge of a race-wage differential into the contract this spring. To weaken their union after fighting so hard was unthinkable to good union men. The result—the union fought and won a big increase with no differential and an iron-bound clause making it a violation of contract to discriminate in hiring, firing, and promotion on the basis of color.

Mobile, Ala.:

When organization work began in the Mobile Pulley works, white molders were receiving 60 cents and Negro molders 45 cents per hour for the same work. In 1944 in negotiations before the regional war labor board the molders and foundry workers union contended for equal pay. The board requested the union to withdraw its demand since equal pay would cause a race riot in Mobile. The union refused and carried the case to the National Board and won the case for their Negro members. All molders in Mobile now receive \$1.38 per hour and a race riot has not occurred. The secretary of the Mobile local 238 is colored and a vice president of the State federation.

Now I just cite those few instances, which our research staff has checked up, Mr. Chairman, to indicate that that is our position in the American Federation of Labor.

All the available information concerning employment, living standards, and job opportunities indicates the harmful results of discrimination. An analysis of this information discloses three types of discrimination:

(1) The denial of promotion opportunities to individual workers qualified for higher-grade jobs;

(2) The denial of training facilities and job opportunities to individual workers who are thereby prevented from obtaining employment in a certain occupation, plant, or industry; and

(3) The denial of equal rates of pay to individuals performing the same work as other employees.

The effect of these discriminatory practices has been to depress the living standards of minority groups. For example, the latest census figures on unemployment—April 1949—indicate that unemployment is 61.7 percent higher among Negroes than among whites. This disparity has largely risen since the war. Thus in July 1945, 1.7 percent of white workers were unemployed as compared with 2 percent for nonwhites (largely Negro); but by April 1949 the percentages were 4.7 for white and 7.6 for nonwhites. Thus, the increase in unemployment for whites was 176.4 percent, but for nonwhites it was 280 percent.

It should be remembered, moreover, that unemployment is often far more serious in the Negro family than in the family of a white worker, because low wages and work in lower-paid occupations leave the Negro worker with extremely limited resources to withstand a long siege of unemployment.

While no comparable figures are available to show the lack of employment opportunities among Jewish workers, some recent surveys indicate that discriminatory employment practices against Jews increased soon after the war. A survey conducted by the National Community Relations Advisory Council—a federation of a large number of Jewish organizations—in 15 cities where 80 percent of the Jewish population of the United States resides, indicated an increase of 195 percent in discriminatory advertisements between 1945 and 1946, despite a decrease in the total amount of "help wanted" advertising.

Over the same period in six of the cities there was an increase of 93 percent in the complaints of employment discrimination filed with Jewish agencies. A survey of 134 employment agencies in 10 of these cities indicated 80 percent of the agencies included questions about religion on their registration forms.

Thus far I have mentioned figures indicating outright denial of employment to members of minority groups. Discrimination is also evident in the wide disparity between the incomes of members of minority groups, particularly Negroes, and those of other workers.

An analysis made by the American Federation of Labor research staff of the official surveys conducted in 1947 by the Bureau of the Census and the Bureau of Labor Statistics, of the average weekly incomes of Negro and white veterans in 27 communities in the South, shows dramatically the disparity in incomes on the basis of color.

The study revealed that the average weekly income of white veterans was between 30 and 78 percent above that of Negro veterans. Right here in Washington, for instance, there were 84,000 white veterans and 36,000 Negro veterans. The average income of white veterans was shown to be \$53 per week, while the Negro veteran's income

was \$32 per week. This means that the white veteran's income was 66 percent above that of the Negro veteran.

That could be reversed and we could say it was 66 percent under that of the white veteran.

While job discrimination is most common against Negroes and Jews, there is also a considerable amount of discrimination against other groups. Thus although two-thirds of those filing complaints in 1947 with the New York State Commission against discrimination were Negroes, and 15 percent were Jewish, two persons actually charged discrimination because they were white, and 17 because of their creed, including Protestants, Catholic, Seventh-Day Adventists, non-Jewish, and non-Catholic. In addition, 7 percent of the complaints charged discrimination because of national origin including Italian, German, Russian, Puerto Rican, Japanese, Austrian, Czech, Bulgarian, French, Irish, East Indian, British, and American.

While exactly the same type of complaints might not arise in some areas as in cosmopolitan New York, surveys indicate that discrimination is not confined to Jews and Negroes, but covers a wide range of races, areas, creeds, and nationalities. These affected by discrimination in employment are not limited to any one minority group but include a large percentage of the population.

The denial of jobs on an equal basis to Negroes and other minorities has very greatly depressed their standard of living. The result has been a large incident of sickness, bad housing, juvenile delinquency, and other social and physical ills among these groups which has represented a very considerable cost to society at large. Therefore, even from the standpoint of its own selfish interest, the majority stands to gain from improvement in the economic condition of minority groups.

The bill now before you, H. R. 4453, differs only in minor respects from bills which have been under consideration in previous sessions of Congress. The bill states, as a declaration of national policy, that—

The right to employment without discrimination because of race, color, religion, or national origin is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.

To carry out this policy, the act lists certain unlawful employment practices properly centered around the employment relationship. It would be an unlawful employment practice for an employer to discriminate against an individual with respect to his employment, or to utilize any employment agency or other organization furnishing workers which practices discrimination.

Recognizing that the primary responsibility for discrimination rests with the employer, the bill correctly confines the definition of an unlawful employment practice by a labor organization to discrimination which would deprive an individual of employment opportunities or which would affect adversely his wages, hours, or employment conditions.

The act is to be administered by a five-man Fair Employment Practice Commission. The bill is so worded that the Commission is given every encouragement to use "informal methods of conference, conciliation, and persuasion" before resorting to legally enforceable orders.

I think that is very important, Mr. Chairman, and too much stress cannot be laid on the need for conciliation and mediation in these

matters. I have in mind the fact that as secretary of labor in Pennsylvania during the years 1939 to 1942, inclusive, we organized a bureau within a department which was devoted to Negro research and planning, and through the efforts of this bureau we found many, many jobs for Negro workers in places where they had previously been denied job opportunities. It was through the persuasion of the director of that bureau, a very high-type, fine colored man, and his assistants that we were able to break into many theretofore prohibited jobs. I cannot recommend too highly the need for conciliatory and mediation efforts.

We heartily endorse this approach which has already been included in the FEPC laws of many States. In New York, for example, it has not been necessary for the commission administering the law to issue a single cease-and-desist order. The entire program there has been administered by informal conciliatory methods. However, it is important to point out that these informal methods would not have proved so successful if the commission at the same time had not had the authority to issue cease-and-desist orders. The bill wisely allows the Federal Commission to cede jurisdiction to comparable State agencies over cases arising within those States, unless the State statute is inconsistent with the Federal law.

I think it is important to stress that language, "unless the State statute is inconsistent with the Federal law."

There is one point which I wish to make absolutely clear. The American Federation of Labor is under no illusion that the passage of this bill will automatically end all types of prejudice in the United States. The bill contains no magic formula for transforming bigotry into tolerance. There is nothing in the bill which could possibly force any individual to change his personal opinion about any other individual.

However, this bill is not meant as the means to produce any such utopia of tolerance. The bill does not propose to interfere with, in any way, individual beliefs or attitudes. What the bill proposes to do is very simple and yet very important. It would make it impossible for these individual personal prejudices to become the means for denying equal employment opportunities to any person because of his race, color, religion, or national origin. As such, it is an extremely important step forward toward assuring full civil rights to all segments of the American people.

The American Federation of Labor hopes that this bill will be enacted promptly in the present session of Congress. While we have recognized the need for this legislation for some time, we feel that it is particularly needed today. It is needed, first of all, because discrimination and denial of employment opportunities to minority groups is likely to be far more serious in a period of declining employment than it is in a period of maximum demand for labor. The old saying frequently applied to Negroes and other minorities that they are "last to be hired and first to be fired" has no place in America today. If we are entering a period of declining employment opportunities, jobs be available on an equal basis to all.

This is also a particularly appropriate time to enact this legislation because of the role which America has chosen as the champion of human liberties throughout the world. We have undertaken under the United Nations Charter to promote universal respect for, and

observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion. Surely, the right to earn a living is one without which other civil rights lose their meaning.

By promptly enacting the FEPC law, we will be assuring the tens of millions in our own Nation who belong to minority groups that every American, whatever may be his color, creed, or national origin, will have an equal right to share in our American standard of living. At the same time, we will demonstrate undeniably to the nations of the world that we intend to practice at home effectively all the principles and policies which we have espoused in our international relations. It is only by such concrete evidence of our sincerity that we will promote national unity at home and good will and cooperation throughout the world.

Mr. POWELL. I want to thank the American Federation of Labor through you, Mr. Hines, for this most excellent presentation and, above all, for the very, very fine resolution endorsing this bill and specifically calling for its enactment during the Eighty-first Congress.

Mr. HINES. Mr. Chairman, there is a lot more I can say in defending the attacks that have been made on the American Federation of Labor on this question.

Mr. POWELL. I was going to say something further.

Mr. HINES. Go ahead.

Mr. POWELL. I was going to say there was a time in the minds of people, and especially minorities, that the A. F. of L. was thought to be antiminority in its policies. We do know that there are a few locals still in the American Federation of Labor that do bar Negroes; but, as we look upon the whole picture of the American Federation of Labor, it proves the point of the fact that the FEPC can work, because here, in your organization, which at one time was sort of hide-bound, let us say, you have now come forward with not only a resolution but with actual instances of integration in the South.

Now, without calling names, we had a member, a colleague of ours from Alabama, who stated here last week very bluntly that it could not work in Alabama, and that it would cause tensions and riots. Here we have, in 1946, in Anniston, Ala., white workers standing up in a more militant position for the rights of Negro workers than the Negro workers themselves. Remember this is Alabama. I think that is important. Unfortunately, without casting any aspersions on our colleagues, we come to Washington; we stay here so long that we forget what is happening in our own districts. We find oftentimes that the people are ahead of us, and I suppose that is why some of us don't get reelected.

Mr. HINES. I might say there is a great change coming over the working people in the South. I think our folks are beginning to realize that we have been exploited by the discriminatory tactics used. I would say in the last 10 or 15 years I witnessed, both as an organizer for the federation and as a director for the organization, as I traveled throughout the South, quite a different attitude. I would like to read a couple of instances that indicate this very thing. These are the remarks of a Negro printer in Nashville, at a meeting of the Central Labor Union, in 1946:

Since the printers in the Negro printing houses went out on strike, some of our Negro civic leaders have told us to go back to work and that the union would

never do right by a Negro. Yet here in Nashville the schools are Jim Crow, politics Jim Crow, and the churches are Jim Crow. The only place in town that I can stand on my own two feet in mixed meeting and enjoy the right of free speech is here at the AFL Labor Temple.

Atlanta, Ga., June 1946:

Brother W. Paul Stuart, Negro, is president of Local 234, International Union of Wood, Wire and Metal Lathers, a mixed union with 65 percent Negro membership. He is also secretary of the State Lathers council and a full-time organizer for the State federation. Nondiscrimination in apprenticeship, job opportunities, and pay scale is militantly enforced. However, this union is no exception. In many southern cities over half of the building-trade union members are Negro, and for mixed unions to have Negro officers and business agents is not uncommon.

Newburgh, N. Y., May 28, 1946:

I thought you might be interested in the fact that in our newly installed charter in Newburgh, N. Y., Union 24018, the members unanimously elected as president Brother Elsworth Potter, the only Negro employed by the company. * * * Brother Potter was also instrumental in having the plant organized. * * *

Meadville, Pa., May 15, 1946:

Although the percentage of Negro population in this area is small, discrimination is absolutely nonexistent. Pay and conditions are equal. A. M. Simmons, Negro, has been president and business representative for Laborers Union No. 431, Meadville, Pa., for many years, although most of the members are white.

Southern teamsters, May 1946:

A short time ago we promoted a Negro local officer to serve as international organizer. He is the hottest fireball we've seen in years. He organizes workers so fast we can't keep up with him—a real credit to his union and to his race.

Bradford, Pa., May 1946:

Howard Matthews, Negro, has held every office and is the most popular leader of Musicians No. 84, although most of the members are white. (Note.—As far as we can be checked, we believe that every Negro industrial worker of Bradford, Pa., is an AFL union member.)

An added note from the same town on AFL cooperation:

When the Negroes at the Koppers tie plant were on strike, the AFL laborers and blacksmiths unions arranged for those in need to have temporary employment on their jobs. Now that the blacksmiths are on strike, the Negro tie workers have reciprocated by arranging with their boss to provide their temporary work for needy strikers. Color isn't considered here, it is whether you are a union man and a square shooter.

The fact of the matter is that has always been the spirit that has dominated our organization. There have been a few, a very, very few members—I don't know of more than three or four—in the national unions that had constitutional barriers. That was largely because of the fact of the prejudice existing in the South which dominated their conventions.

Mr. Chairman, might I inquire as to just one part of this bill that we are a little puzzled about?

Mr. POWELL. The one on unions?

Mr. HINES. This has to do with your bill here.

Mr. POWELL. The section on discrimination in unions?

Mr. HINES. Yes, where all of the groups are placed in one category and we are excluded. I don't know the purpose of that.

Mr. POWELL. Let us hear it.

Mr. HINES (reading):

The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States, including the District of Columbia, or of any territory or possession thereof; and any person acting in the interest of any employer, directly or indirectly; but shall not include any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, and not organized for private profit, other than a labor organization.

Mr. POWELL. I agree with you on that. I understood a couple of days ago the American Federation of Labor was concerned about that, and I have a proposition which I will present to the committee, which goes like this—

Strike out line 13 on page 4—

that is the line you mean?

Mr. HINES. Yes.

Mr. POWELL (reading):

and add to line 20 this sentence: "A labor organization, when it has in its employ fifty or more individuals and is engaged in commerce or in operations affecting commerce, is subject to the provisions of this Act regarding employers."

Mr. HINES. I just wondered why we were set aside from these other groups.

Mr. POWELL. Frankly, there are several things in this bill of a minor nature like that which, when the committee reads it, we will change. You must understand that this bill came to the chairman from the administration, without the chairman writing it.

For instance the word "ancestry" is not in it.

Mr. HINES. It was in the Ives bill, too.

In the employment of personnel, I don't suppose anyone would want to interfere with the porters employing Negroes exclusively as organizers.

Mr. POWELL. I believe Negroes can be just as difficult as other races on the question of discrimination.

Mr. HINES. In line with the policy of labor organizations, I think the logical man for an organization job is one who will come up through the ranks, and in this case he naturally would be a colored man. You take in a heavily predominate Jewish organization, you find people in the ranks are promoted to a job in the organization.

Mr. POWELL. Take the red caps, we think of them as Negroes, but when you get to the West, St. Louis and Chicago, they are white. In the service unions they have both Negro and white workers. I think the whole practice of discrimination should be done away with.

Mr. HINES. Of course I don't have much to worry about that in my union. I am a metal polisher and electroplater, and I belong to that union. We don't draw the line. We have many colored officers in the union, we have colored organizers, and we get together and all that sort of thing, but if we were to hire somebody as business agent, he would be the best qualified person, regardless, and we would not want any charge levied at us that we were discriminating against anyone.

Mr. POWELL. Here you have in one union the only Negro member and they make him the president. Inasmuch as they are in the union, they would have the right, by majority vote, to decide that themselves.

Mr. HINES. I think this, Mr. Chairman, I think that there would have to be a lot of common sense applied in the administration of this law.

One of the things that has made us fearful at times has been the fact that we have had so much experience with, shall I say, bureaucratic agencies. I do not like to use that term. You set up a commission and the commission goes in business, and they have to have something to do, and they sometimes are looking for business. I am just a little bit afraid they may overreach themselves and drag us through a lot of court procedure. I strongly urge that you put some protective measure in here to prevent these fellows from dragging everybody in before the Board. Conciliatory methods are the best.

I know for instance, from my experience in trade-union work, going back a good many years, 37, to be exact, that there are some fellows in the unions who would just welcome the opportunity to use this Board as a means of venting their spite on some of the officers of some of the unions.

Mr. POWELL. I would like to say just one thing before my colleagues ask you any questions, that is this, and this is my opinion, based on knowledge of the South, of both white and Negro, in fact I am but one generation removed from the South. More and more there is coming to this Congress a new type of Representative from the South. My opinion is that the major objection to an FEPC by Representatives from the South is this: That if FEPC became law many of them would be put out of office, because Negro and white workers, as you have pointed out, in Anniston, Ala., in Georgia, are getting together more and more. They are working together and helping each other, realizing that as long as the Negro is an economic slave the white worker in the South must be a semislave. When the FEPC is passed and gives them a chance to get together, they will unite on other matters.

Mr. HINES. I was at a convention of the Virginia Federation of Labor Monday and there was a large percentage of Negro delegates there.

Mr. POWELL. Were they segregated?

Mr. HINES. No, they were mixed up in around the audience.

Mr. POWELL. Were they voting?

Mr. HINES. All voting, all participating, and in fact the address of welcome to the delegates was given by a colored man representing the building trades. I thought that was an outstanding example of how they get together and work together there.

Mr. POWELL. When a Negro, Oliver Hill, was elected to the Council of Richmond, Va., last year, he received over 10,000 votes from whites. He was the first Negro elected to a legislative body of any municipal council in Virginia.

Mr. HINES. Mr. Chairman, I have always belonged to that school which believes in the fundamental principles of trade unionism, and we realize that you cannot discriminate against anybody in employment matters or in membership in unions matters, and we have always had this point of view, that the fellow whom you refuse to bring in will be the fellow who will work against you on the outside. You have got to bring them in whether you like it or not.

I have in mind the fact that as a director of the organization I worked out a program with the bishops of two of these religious

groups in Pennsylvania, the Mennonites and Dunkards. It is against the tenets of their religion to take office, or to owe any obligation to a labor organization. We had to overcome some objections on the part of our people, too, but we finally worked that out. We brought them into our own local unions in Pennsylvania where they have come and applied for membership, and we brought them in despite the fact that a number of the members thought they ought to be full-fledged members or they ought to be prohibited.

Mr. POWELL. Mr. Burke.

Mr. BURKE. I, too, want to compliment the witness on a very fine statement, and congratulate the A. F. of L. on its really terse and hard-hitting resolution. It is right to the point, it leaves no one guessing as to what the position of the organization is.

On this subject of employees of the labor unions themselves, many unions have as their sole employees elected officials. In other words, it is by the process of election, so it is hard to determine.

For instance, in my own local union we have an executive board of, I think it is 16 or 18 people. One of those was a Negro, but he was elected, and he was elected by the membership. It just happens that way. I don't think that any law can control the election of individuals to an office.

Mr. POWELL. That is right.

Mr. HINES. I think you must follow a certain procedure. You must get the best men or the best women for the job. I don't think it is the question of selecting somebody on the basis of color or anything else, it is a question of getting the right person for the right job.

Mr. POWELL. That is all. Thank you ever so much.

We will next hear from Mr. Irving Kane.

TESTIMONY OF IRVING KANE, CHAIRMAN, NATIONAL COMMUNITY RELATIONS ADVISORY COUNCIL

Mr. KANE. The National Community Relations Advisory Council is a coordinating body of national and local Jewish community relations agencies. Its national member organizations are: The American Jewish Committee, American Jewish Congress, Anti-Defamation League of B'nai B'rith, Jewish Labor Committee, Jewish War Veterans, and the Union of American Hebrew Congregations. Also affiliated with it are 27 regional, State, and local community councils throughout the country. These are the Akron Jewish Community Council, Baltimore Jewish Council, Jewish Community Council of Metropolitan Boston; Jewish Community Council, Bridgeport, Conn.; Brooklyn Jewish Community Council; Cincinnati Jewish Community Council; Jewish Community Council, Cleveland, Ohio; Detroit Jewish Community Council; Community Relations Committee of the Hartford (Conn.) Jewish Federation; Indiana Jewish Community Relations Council; Public Relations Council of the Jewish Federation of Indianapolis; Jewish Community Council of Greater Kansas City; Los Angeles Jewish Community Committee; Milwaukee Jewish Council; Minnesota Jewish Council; Jewish Community Council of Essex County, N. J.; New Haven Jewish Community Council; Norfolk Jewish Community Council; Jewish Public Relations Council for Alameda and Contra Costa Counties, Calif.; Philadelphia Jewish

Community Relations Council; Jewish Community Relations Council, Pittsburgh; Jewish Community Relations Council, Rochester; Jewish Community Relations Council of St. Louis; Southwestern Jewish Community Relations Council; Jewish Survey and B'nai Brith Community Committee of San Francisco; Jewish Community Council of Springfield, Mass.; and Jewish Community Relations Council of the Jewish Federation of Youngstown, Ohio.

I have the honor to be chairman of the National Community Relations Advisory Council, the constituent communities of which comprise upward of 90 percent of the Jewish population of the United States. Although I have not personally appeared before congressional committees at earlier hearings on this legislation, other spokesmen for the council have done so on several occasions, most recently on June 19, 1947, when we submitted testimony before the Committee on Labor and Public Welfare of the Senate.

At that time, we pointed out that discrimination in employment harms not only its victims but those who practice it; that it is not only immoral and unjust, but un-American and undemocratic, a denial of those self-evident truths proclaimed in the Declaration of Independence.

We showed that employment discrimination breeds poverty and its concomitants, disease, shims, and crime; that it is associated with low per capita income, thus limiting purchasing power and business volume; that it depresses wages and creates divisions within labor.

We pointed out also that the existence of such discrimination here at home is a severe handicap to those who speak for us in our relations with other countries.

I shall not dwell again at this time upon the many and conclusive arguments for effective Federal legislation to prohibit discriminatory employment practices.

During the current hearings, several of the organizations affiliated with the National Community Relations Advisory Council will appear before you through their respective representatives and I am confident that they, and other witnesses, will demonstrate the need for prompt enactment of H. R. 4453. Rather, I should like to place before you some new evidence, which has been gathered since our last testimony, and which emphasizes the urgency of the need for effective legislation.

At the 1947 hearings, we offered evidence of the existence of serious discrimination in employment against Negroes, Jews, and other minority groups, and predicted that this discrimination, flourishing even then, during a period of peak employment, would grow if the employment situation deteriorated. Unhappily, developments since then have only too abundantly justified our prediction.

In October 1947 the President's Committee on Civil Rights published its now famous report, *To Secure These Rights*. The President's committee found that Negroes, Jews, Mexican-Americans, and Japanese-Americans are almost completely barred from executive and clerical employment opportunities, as well as from many categories of skilled work; and that even the lowest paid jobs, members of these groups have difficulty in securing employment. Also that they are discriminated against in respect to pay for work at similar levels of skill and capacity.

Studies by official governmental agencies in a number of States and cities have produced shameful corroborative evidence.

A survey of the Illinois labor market by the Illinois Interracial Commission revealed that private fee-charging employment agencies did not even list nonwhite applicants. Ninety-five percent of private employment agencies reported that Jewish applicants faced serious discriminatory barriers in attempting to qualify for jobs, substantial percentages reported similar discrimination against Catholic workers.

The survey also revealed that over 100,000 discriminatory "help wanted" ads were published annually in newspapers in the State of Illinois; that of 1,800 Illinois business firms polled, over half reported no nonwhite employment; that 70 percent of all financial and 75 percent of all accounting, advertising and other service firms in the State had no nonwhite employees; that only 3.6 percent of the employees of the public utilities of the State of Illinois are nonwhite. Of all job orders received from employers in Illinois State Employment Service offices in East St. Louis during April 1947, 60 percent carried discriminatory specifications; in Chicago, 58 percent carried such specifications.

These are but a few of the findings presented in a 114-page printed report on employment opportunities in Illinois, printed by authority of the State of Illinois, and presented this year to the Governor and the legislature of the State. With your permission, I should like to submit a copy herewith, for your study and for the record of these hearings.

(The document referred to was filed with the committee.)

Mr. KANE. When I left Chicago this morning I noticed a headline in the Chicago Tribune to the effect that the House of Representatives of Illinois passed the FEPC bill.

Mr. POWELL. What was the vote?

Mr. KANE. The subtitle indicated it passed by a majority of 4 votes, but I did not read the article itself.

In Missouri, a special committee of the house reported on March 2, 1949, to the general assembly on its investigation of violations of equal rights under the Missouri Constitution. Among those violations, the committee enumerated discrimination against colored workers in job placement in the metropolitan areas of St. Louis and Kansas City, exclusive of Negroes from membership by certain building trades and other craft unions, and other evidence.

A Minneapolis self-survey conducted by the mayor's commission on human relations found that Jews, Negroes, Japanese-Americans and other minority group members are widely discriminated against by employers.

Like the Illinois report, this Minneapolis survey contains a great volume of statistical and other factual evidence of the extent of employment discrimination.

With your permission, Mr. Chairman, I should like to submit for incorporation in the record a copy of that report.

(The report referred to is as follows:)

REPORT AND RECOMMENDATIONS OF THE INDUSTRY AND LABOR COMMITTEE OF THE
MINNEAPOLIS COMMUNITY SELF-SURVEY OF HUMAN RELATIONS

This is a summary of the findings of the Industry-Labor Committee of the Community Self-Survey and a statement of certain recommendations which the committee feels are essential to improving the employment opportunities for members of certain minority groups in Minneapolis.

The function of the survey was to determine the majority-minority relations in industry in an attempt to discern the nature and extent of the minority problem in Minneapolis economic life.

The information upon which the full report is based was obtained principally from questionnaires mailed to employers and trade-union locals; from personal interviews with employers, local trade-union officials, individual wage earners, and from public and private agencies concerned with industrial relations in the city of Minneapolis.

While conditions here are probably not substantially different from those to be found in other northern cities of comparable size, there are important points which ought to be brought to the attention of the public.

EDUCATION AND TRAINING OF WORKERS

(1) That of the group surveyed, the Jewish and Negro employees have a higher median average of basic schooling (years 1-12, nonvocational) than do white Gentile employees.

(2) That the attainment of a given occupational level by a member of a minority group required a proportionately higher educational achievement as the intensity of the feeling against a minority group increased. Thus, the educational attainment, to achieve a given occupational level, for Negroes must be greatest, for Jews somewhat less, and for Nisei, the least of the minorities studied.

(3) That the proportion of white Gentile workers having trade or business education was larger than that of Jews or Negroes, though over 80 percent of all three groups had not had any such training.

(4) That through the war production training program, both in number of jobs trained for and promotions based upon such training, proportionately, the Negro workers reporting ranked highest, the Jewish group next, and white Gentiles third. Yet this has not been reflected in a significant change in occupational status of the minorities relative to the majority in the postwar pattern as of the end of 1946.

(5) Even when facilities for vocational training are available to the minorities, they sometimes lack the incentive to train because of the prospect that they cannot get jobs and wage rates available to white Gentiles with similar qualifications. The Negro feels this more keenly than Jews or Japanese-Americans.

(6) Some form of training was offered its employees by 90 percent of the firms reporting; but between one-third to one-half of those hiring the minorities gave them no training.

(7) While about one-third of the unions offered apprenticeship training, it was not a significant source of vocational training for the minorities. Only from 6 to 18 percent of the unions had the minorities in their training programs. Negroes fared worst and Jews best among the minorities in such programs.

(8) War production training experience in Minneapolis during World War II demonstrated that minorities, like white Gentiles, will respond to vocational training opportunities when they have a reasonable prospect of employment at the skills learned at standard wage rates and an opportunity for promotion in keeping with their training and efficiency on the job. However, it was too limited in duration and content to be directly transferable to normal peacetime jobs.

EMPLOYMENT OPPORTUNITIES FOR MINORITIES

(1) The wide difference between kinds of jobs held by white Gentiles and minority groups has prevailed over a long period, and at the time of this study, showed little sign of change. However, since that time some progress has been made in opening job opportunities, particularly for Negroes, in department-store clerking. Nevertheless, this difference between the kinds of jobs held by white Gentiles and minority groups is strong evidence that minority status is important in Minneapolis in the selection of workers for jobs. The Jewish group has remained concentrated in clerical and sales jobs; Negroes in nonmanufacturing service jobs of the lower and less desirable levels.

(2) Jews face obstacles in industrial employment, like Negroes and Japanese-Americans, though higher levels are open to them than to the other minorities studied.

(3) The presence of a substantial group of Jewish employers provides one special field of job opportunities open to Jewish workers. This is a situation not typical of other minorities.

(4) The present position of the minority groups as compared with that of white Gentiles is a little different from that held in 1940. However, they have shared with wage earners generally the improved economic status which has accompanied rapidly expanding industrial activity during the period 1940 to 1947.

(5) The community at large, as well as industry, is deprived of the full productive potential of minority groups as workers through:

(a) inequalities of opportunity for training.

(b) established practices of discriminatory labor recruitment.

(c) discouraging of technically qualified individuals whose opportunities for advancement are limited by their race, creed, color, or national origin, burdened with the resultant social costs of such inequitable treatment.

(6) One of the most serious and yet most elusive obstacles to the fair employment of minorities is discriminatory practices of recruitment agencies. The elimination of such practices depends, finally, upon the action of employers since they control the channels of recruitment through which the great majority of workers are employed and also have the final right to accept or reject applicants from any such agency.

However, the employment agency forms the initial contact between the employer and prospective employee and is thus in a strategic position to either promote or discourage fair employment practices. In many cases these agencies can assist in the process of educating employers to the advantages of nondiscriminatory personnel practices.

UTILIZATION OF MINORITIES

Users v. nonusers.—Of 523 firms reporting prior to January 1, 1947, the following percentages of firms hired the listed combinations of minority group people: 43 percent hired no Jews, Negroes, or Japanese-Americans; 37 percent hired one or more Jews, Negroes and/or Japanese-Americans; 13 percent hired Jews only; 5 percent hired Negroes only; 2 percent hired Japanese-Americans only; 9 percent hired Jews and Negroes; 3 percent hired Jews and Japanese-Americans; 1 percent hired Negroes and Japanese-Americans; 3 percent hired Jews, Negroes, and Japanese-Americans.

Of 340 manufacturing firms responding, 30 percent hired and 61 percent did not hire one or more Jews, Negroes, or Japanese-Americans; 103 nonmanufacturing firms responding, 31 percent hired the minorities while 69 percent did not.

The following percentages of firms in the listed main industry groups in 1947 employed one or more members of the minorities studied:

	Percent
Textile and apparel.....	88
Machinery.....	46
Wholesale and retail trades.....	40
Printing, publishing, and paper manufacturing group.....	80
Planing mill, furniture, and other wood products.....	37
Personal services.....	36
Iron, steel, nonferrous metals, etc.....	32
Food and kindred products.....	23
Finance, insurance, banks, and real estate.....	24
Transportation, communication, and utilities.....	18

On the basis of 1947 experience, in all main industry groups except textiles and apparel, members of the minorities can expect employment in less than one-half of the firms.

Distribution of users.—Of 184 firms responding that they do employ the minorities, 72 percent were in the manufacturing industries and 28 percent were in non-manufacturing service industries.

Size of firm.—The average size firm in Minneapolis is small (23 employees); that of firms not employing the minorities is even smaller (20 employees); while those employing minorities are concentrated among the larger-than-average-size establishments (55 employees). The 40 percent of all firms which employed the minorities, numbered among their labor force 80 percent of the estimated total employees.

Occupational distribution.—Of the three minorities studied, a qualified Negro was most narrowly restricted as to the occupational levels he might expect to reach; the Japanese-American was somewhat less restricted; and the Jew had the best opportunity, though he too suffered real limitations, particularly in the upper occupational levels. Of the firms employing the minorities, 43 percent of

those employing Negroes, 18 percent employing Japanese-Americans, and 10 percent employing Jews, respectively, used them at the unskilled labor level.

Period of utilization.—In point of tenure as industrial workers in Minneapolis, the Jewish minority is the oldest and most stable of the three while the Negro and Japanese-American groups are younger and their status in industry more uncertain and unstable. About 75 percent of the present employers of Jews had them on their pay rolls prior to January 1, 1942. However, 60 percent of those hiring Negroes and 80 percent of those hiring Japanese-Americans employed them since January 1, 1942.

MINORITIES AND UNIONS

The union and minority adjustment.—The discriminatory treatment of the minorities by unions has an important effect upon industrial relations. Failure to accord equal treatment and rights to all workers may result in intergroup tension and disharmony which leads to low levels of productivity. Furthermore, in order to maintain internal strength and stability, which is essential to effective collective bargaining, it is important that unions adopt and maintain a policy of representing with equal vigor all of its members.

Significance of minorities in union locals.—Of the sample studied, 62 percent of the Negroes, 68 percent of the white gentiles, and 51 percent of the Jews belonged to a union.

While a larger percentage of Negroes than Jews were union members, the Jewish group was more widely diffused among the unions, e. g. 72 percent of the locals had Jewish members and 62 percent had Negroes.

Negro and Japanese-American workers had membership in labor organizations in proportion to (Negro) or more than proportionately to (Japanese-American) their numbers in the total population, while Jewish memberships were less than proportional to their memberships in unions respectively; and was proportionately larger than that of their white gentile brothers.

Membership status.—The overwhelming majority of reporting union locals did not officially deny membership right to Jews, Negroes, or Japanese-Americans. But most of the locals whose parent internationals maintain a discriminatory policy with regard to one or more of these minorities did not reply. Because these are concentrated among the highly skilled craft unions which exercise close control over the hiring and training of workers in their crafts, their practices seriously limit both the immediate and the long-range employment opportunities of the minorities.

Participation.—Of all union locals reporting (in 1947) the minorities were judged average or above average on the basis, respectively, of 10 standards of a good union member in the following percentage of locals: Jews, between 94 and 97 percent of the locals; Negroes, between 63 and 100 percent of the locals; Japanese-Americans between 80 and 100 percent of the locals.

Of all union locals reporting on participation of the minorities in union affairs, 23 percent had Jewish, and 15 percent had Negro officers; 10 percent had Jewish and 10 percent had Negro board members.

Minority policy and its implementation.—Eighty percent or more of the union locals reporting felt that the three minorities were beneficial to the success of the labor movement of Minneapolis, and about 80 percent indicated that they were making some effort to educate their memberships to the acceptance of a policy of equal work opportunity for all members. However, a sizable number of locals was noncommittal on such matters.

Education and persuasion through talks and discussions in meetings and through the distribution of antidiscrimination literature constituted the most generally used union methods of promoting fair employment practices; efforts to enact antidiscrimination clauses in the local constitutions and to gain their inclusion by employers in union-management contracts were next in importance. Specific machinery for enforcing the avowed nondiscriminatory policy was found to be rare. Only 6 percent of the locals reporting had antidiscrimination committees or their equivalent.

A substantial majority of the locals expressed a willingness to foster fair employment practices by refraining from giving aid and comfort to recalcitrant employers or to rebellious members of their rank-and-file membership whose actions contributed to discriminatory patterns of minority utilization. However, whereas between 90 and 100 percent of the unions reporting were willing to cooperate with employees who wished to convert their employment practices to a nondiscriminatory pattern, only between 65 and 70 percent of them were certain

that they would persuade white members to accept such a policy when this group expressed open opposition to it.

RECOMMENDATIONS

The committee makes the following recommendations:

(1) That educational programs in human relations be encouraged and initiated by employers and recruitment agencies; that educational programs in human relations now sponsored by labor organizations be expanded in scope, participation and intensity.

(2) That members of minority groups be encouraged to follow vocational, business or academic training for which they are best qualified.

(3) That vocational counselors recommend to those whom they counsel, training in the field of employment in which the individual shows the greatest aptitude without reference to the counsellee's race, color, creed, or national origin.

(4) That apprenticeship courses and employer training courses be open to all workers on an equal basis.

(5) That sound State fair employment practices legislation, with enforcement powers, be enacted and judiciously administered.

(6) That the Minneapolis Fair Employment Practices Ordinance as amended October 20, 1948 be given wide publicity as to its contents and purposes; further that employers, unions and recruitment agencies be fully informed as to its progress to the end that the public as a whole will give its wholehearted support to the ordinance and its effective administration.

(7) That the activities of the Joint Committee on Employment Opportunities be made known to the public and full public support for the work of this committee be sought in a further effort to open up new job opportunities for the minorities.

(8) That unions and employers jointly agree to place some stipulation in collective bargaining contracts through which both parties recognize the unfairness of discriminatory practices based on race, creed, color or national origin and agree that no discrimination shall at any time be permitted to exist in the particular plant, company or industry for which a contract is being negotiated.

Bradshaw Mintener, chairman; Stuart Leck, Alfred Wilson, George Prouty, John Sherman, Walter Feldman, Arthur Randall, Nell Cronin, Thomas Vennum, Cameron W. Elliott, Kenneth Emanuelson, Clarence Benson, Douglas Hall, George Johnson, Oscar Winger, George McDonald, Rubin Latz, Norman Carle, Ernest Donaghue, William Seabron, Judge E. F. Waite, Hubert Schon, Funtio Hangal, members.

Mr. KANE. Within the past 2 months, the Ohio State Employment Service reported that two out of every five job openings referred to its offices openly bore discriminatory specifications. A survey of employment opportunities for Jews in public accounting in Cincinnati revealed that the 15 largest public accounting firms employing a total of 286 accountants have only three Jewish employees, and have employed a total of only 11 Jews over the 30 years.

The Michigan State Employment Service reported as of May 1948, that "about three-quarters of recent job listings for unskilled workers were not open to nonwhite workers." This report is cited in a memorandum prepared by the Michigan Committee on Civil Rights. The same memorandum cites a survey made among employment agencies by the Jewish Community Council of Detroit, which elicited the information that most banks and trust companies hired only white Christians. Other surveys cited indicated that many areas of employment were virtually closed to foreign-born, Catholics and others. Despite a severe labor shortage in Detroit, employers refused to employ qualified nonwhite workers.

According to an official publication of the United States Employment Service (Labor Market Information, August 1948):

One of the key factors limiting expansion of Detroit's industrial machine has been the inability to achieve maximum utilization of labor reserves. While the

total number of job seekers appears adequate to meet the labor demand, hiring specifications have cut sharply into the "employability" of certain workers' groups.

Here is the most direct possible testimony to the depressing effect upon industrial efficiency of minority discrimination in employment.

On the opening day of these hearings, Representative Clare Hoffman of Michigan testified that there was no significant amount of employment discrimination in his State, and he asserted, presumably from personal observation, that there was virtually no such discrimination in his own district. As for conditions in the State of Michigan as a whole the statement of the Congressman must be weighed against the facts which I have just cited from impartial official sources. As to conditions in the Congressman's own district, it would be most extraordinary indeed if of all the State of Michigan, that corner which has chosen Mr. Hoffman to represent it should be free of discrimination in employment—the more so since in the city of Lansing, the State capital, and within an hour's motoring time from the eastern boundary of Mr. Hoffman's district, the Lansing chapter of the Michigan Committee on Civil Rights in January 1948 found what it calls the following "amazing situation":

No stores have employed colored clerks or office help. No offices have hired colored secretaries or stenographers, or bank tellers or cashiers. No restaurants have hired colored waiters, or theaters ushers or ticket sellers. There are no colored bus drivers. No municipal office or department has employed a colored person for any other purpose than janitors or maintenance. Only two factories have one colored salaried employee each. When employers were asked the reasons for this discrimination they were very frank to say that it was because of color.

In a report on segregation in Washington, the National Committee on Segregation in the Nation's Capital has revealed the shocking extent of all forms of racial discrimination here in this very city, the seat of our National Government. Here are but a few points in the indictment:

Negroes are excluded from most skilled trades by the craft unions, and from whole industries by management policy. In retail trade, utilities, communications, and transportation, they have little chance. The telephone company employs no colored mechanics or linemen. The big department stores deny Negro women a chance to become clerks—even one large bargain store whose customers are two-thirds Negro. In 1946, three-quarters of all Negro jobholders were employed as laborers, domestics, or service workers while only one-eighth of white employees were in these categories. Even in the city government, a Negro cannot get a job as a water-meter reader, a building inspector, a weights-and-measure inspector, or as a guard in a jail.

In view of these and other equally lamentable facts, it is a source of especial gratification that H. R. 4453 specifically extends the coverage of the legislation to the District of Columbia.

During the war and the period of high employment which followed it, many members of minority groups found employment in jobs which had previously been closed to them. However, now that employment is beginning to decline, the long-established principle of last hired, first fired has come into play. Its effects are clearly evident in the statistics on initial claims for unemployment insurance during the early weeks of the present year. Those statistics show a national increase in claims of about 20 percent, as compared to increases ranging from 85 percent to 200 percent in the 12 Southern States in which the majority of the Nation's Negroes live and work.

The Bureau of the Census reports that during December 1948, normally a month of increasing employment, some 110,000 idle were added to the unemployment rolls. The Census Bureau pointed out that Negro unemployment percentages are consistently higher than those for whites, and concluded that because of the tendency to lay off Negroes before whites and because of the relative lack of skill required in jobs usually assigned to Negroes, Negroes will suffer an increasingly higher percentage of unemployment in any recession that may overtake us.

Let me observe once more that the facts I have been citing are drawn from official and responsible sources—not from the unsupported claims of advocates of FEPC. I could continue to pile up such citations, but they would serve only to drive home harder the dismal conclusion to which we are forced, namely, that discrimination in employment is rife, and that as unemployment increases, the effects of discriminatory employment practices fall with greater and greater weight upon minority group workers.

Just as economic developments during the past 2 years have revealed an increase in the practice of discrimination in employment, so other developments during that period have given added cogency to the arguments which we previously advanced in support of Federal fair employment practices legislation.

Demands for such legislation have multiplied on all sides. The distinguished body of outstanding men and women who comprised the President's Committee on Civil Rights made the enactment of a Federal Fair Employment Practices Act one of their principal recommendations. There is no need here to read the roster of that Committee, nor to dwell on its broad representatives of business, labor, minority, and religious groups, and geographical regions. That this group should have reached the unanimous conclusion that Federal fair employment practices legislation is an essential step toward the securing of our democratic rights seems to me to constitute a sufficient reply to the opponents of this legislation.

While the report of the President's Committee on Civil Rights must have been in the final stages of preparation, the Committee on Labor and Public Welfare of the United States Senate was holding hearings on S. 984, a bill incorporating the same provisions as those contained in H. R. 4453. The Senate committee's report was favorable, as all congressional committee reports have been on such legislation, but the bill was not brought to a vote on the floor.

Public opinion has been growing steadily in favor of fair employment practices legislation. Within little more than the past half year, indeed, fair employment practices legislation has achieved the status of a major political, as well as social and economic, issue. Both the Democratic and Republican National Conventions adopted platform planks pledging equal employment opportunities for all. The Democratic platform was particularly forthright in its pledges, calling directly for legislation guaranteeing, among other rights, the right to equal opportunity of employment.

These Democratic Party pledges were placed before the electorate in an almost uniquely dramatic context. At the Democratic National Convention, the civil-rights plan was written into the party platform at a tense session which for sheer political drama would be hard to

match. It was over this plank that the Dixiecrat minority stalked out of the convention. The entire Nation was watching the Democratic Convention, and to the people of this country the fight on the convention floor epitomized the struggle within the party between liberalism and reaction. They applauded the victory of liberalism, and their support of Democratic candidates in the ensuing election reflected their fervent desire to see the Democratic promise of civil rights reform translated into early performance. They are still waiting for that performance, and their patience is wearing thin.

The growth of public demand for fair employment practices legislation further is indicated by the fact that successful campaigns for the enactment of State FEPC laws have been carried out during the past 2 years in 5 States. In 1947 when we testified in support of the fair employment practices bill then pending in Congress, we could look back upon only 1½ years of experience with State FEPC in 3 States, namely: New York, New Jersey, and Massachusetts. Connecticut had just passed its law in the preceding month. Today, we have 4 years of such experience, and we have effective laws in 8 States, including in addition to the 4 already named New Mexico, Oregon, Rhode Island, and Washington. We can point also to the most comprehensive municipal fair employment practices ordinances yet enacted—that of the city of Philadelphia, which provides for a comprehensive program, with adequate staff and facilities for investigation, negotiation, conciliation, and in need, judicial proceedings. Chicago, Milwaukee, Cincinnati, Phoenix, and Minneapolis had previously enacted local ordinances on fair employment practices.

Experience with these State and municipal laws has demonstrated conclusively that FEPC works. Experience has shown that where FEPC is in effect, Negroes and other minority groups find employment in industries previously closed to them, that questions about race, religion, national origin, and other occupationally irrelevant data disappear from employment forms, and that minority group workers are increasingly admitted to membership in unions from which they were formerly excluded. Varying numbers of complaints of employment discrimination have been handled without friction, in the several jurisdictions in which fair employment practices laws now are in effect; but the number of complaints does not by any means tell the story of the effectiveness of FEPC. Hundreds of employers have voluntarily changed their employment policies and found that it pays to do so. Wise and skillful administration have won enthusiastic endorsements by businessmen and personnel managers of laws to which some of them looked forward with trepidation. Their experience with FEPC constitutes an unimpeachable answer to those who still continue to oppose Federal FEPC legislation on the ground that it will prove unworkable, that it will impair employers' freedom of choice, that it will work hardships on the tax structure. These and other alleged horrendous effects, experience has shown to be pure figments of the troubled imagination of the opposition.

In November 1948, the Legislative Reference Service of the Library of Congress issued a survey titled "Anti-Discrimination Legislation in the American States," setting forth the arguments for and against such legislation. "In the early stages of development," says this objective analysis, "there were many—even including some who were favorably disposed toward the idea—who doubted whether such legisla-

tion could be made to work. Today, with 3 years of experience on which to judge, with laws in operation in 6 States, there is ample evidence to support their most sanguine hopes." In our testimony 2 years ago, we reported on a survey showing the incidence of discriminatory questions on employment application forms to be far greater in States without FEPC laws than in States with such legislation. A similar survey covering the experiences of 4,142 applicants during the first 5 months of 1948, revealed that 26.2 percent of the applicants in States without FEPC laws were asked about their religion, whereas only 4.3 percent of the applicants in FEPC States were asked for similar information. In other words, applicants were asked about their religion in States without FEPC laws more than six times as often as in New York, New Jersey, and Massachusetts.

A Census Bureau survey of Greater New York revealed that between 1940 and 1947, there was a 400-percent increase in the number of Negro women in sales and clerical jobs there. Where formerly only 3 percent held such jobs, the figure had risen to 13 percent. Whereas in 1940, only 20 percent of employed Negro men were in semiskilled occupations, by 1947 there were 30 percent. The New York Herald Tribune, scarcely a radical journal, in commenting editorially on these figures in its issue of October 6, 1948, said of them:

A large share of credit goes to New York's pioneer law against discrimination in employment.

The Des Moines Register in its issue of September 5, 1948, reported on a study of the employment of Negro white-collar workers in private industry in 25 selected cities. Of a total of 7,734 such Negro employees in the 25 cities—

more than one-half were working in four cities only—and the four were in States with antidiscrimination laws for employment. Another third were in Chicago, which has a city antidiscrimination ordinance.

Chicago is a special case, however. Most of the Negro white-collar workers there were clerks in mail-order concerns at the edge of town, where they do not meet the public. Chicago had only three Negro department store sales persons outside Negro neighborhoods, against New York's 382 and little Hartford's 89.

Omitting Chicago, the 4 cities in antidiscrimination law States have 77 percent of the Negro white-collar-and-up workers in all 24 cities.

In the conclusion of its annual report for the year 1948, the New York State Commission Against Discrimination stated:

It is not too much to say that the Commission began its work in an atmosphere of apprehension and foreboding. Fearful predictions were made by an important segment of the press regarding the ultimate state of this legislation and highly regarded individuals expressed their concern and fear lest this experiment in the regulation and control of human behavior, this effort to change long established habit and custom, would fail and thus retard the progress of the harmonious racial relations for many years.

Today the foreboding has subsided and the apprehension has almost completely disappeared. New York has demonstrated beyond the peradventure of doubt that such a law can be administered without confusion, recrimination, the acceleration of racial antagonism and antipathy, and without threat to the stability and order of business enterprise.

The administrators of FEPC laws in New York and other States have appeared before you in the course of these hearings and have testified unanimously to the same effect. But perhaps the testimony of an independent weekly magazine on national and international affairs, the U. S. News and World Report, on the operation of the

New York State FEPC, is even more convincing. In its issue of July 30, 1948, the U. S. News and World Report introduced an article on the New York law in the following language:

Doors, once closed, now are opening to give many new jobs to Negroes in New York State. Here is a fair employment practice law that Congress may try to copy. Enforcement troubles in New York are few. Employers and workers, skeptical at first, generally accept the law with little fuss. Crack-down methods are frowned upon, and nobody yet has gone to jail for violation.

This is the kind of experience which has led some earlier opponents of the idea of legislating against discrimination to reverse themselves and give their approval to FEPC after seeing it work. For example, the Bronx Chamber of Commerce, which originally opposed enactment of the Ives-Quinn Act by the New York Legislature, has now approved without a dissenting vote the following proposition recommended by its board of directors:

That the organization support Federal legislation similar to the New York State law having to do with discrimination in employment. It is reasoned that in the interests of society the people of other States are entitled to the same protection as those seeking employment in this and any other State that may have antidiscrimination laws.

In announcing the membership's approval, President George F. Mand said in a public statement:

We believe other business organizations should embrace our reasoning that the people of every State are entitled to the same protection as New York and that it is greatly in the interest of society in general. We take the lead as a business organization in step with reasonable social reform.

Early this year the Cleveland Press assigned one of its staff writers, Robert C. Stafford, to study and report on the operation of FEPC laws in New York, Connecticut, and New Jersey. Some of Reporter Stafford's observations are strikingly pertinent here.

"Vocal opposition is extremely hard to find in New York City," he wrote. "This reporter spent 2½ hours on the telephone calling a long list of organizations supplied by the State chamber of commerce before a statement against FEPC was obtained."

Of Connecticut, he wrote: "It was difficult to find opposition to the Connecticut FEPC law."

In New Jersey, he wrote, he "was given the name of William C. Cope, operator of seven business schools, as one who opposed the law." But Cope, when queried by the reporter, said "I'm for it."

Wherever FEPC laws have been passed the critics of antidiscrimination legislation have found the ground pulled out from under their feet. The widely predicted friction among employees of differing races and religious background have simply failed to develop, as personnel managers in all kinds of industries have attested. Customer resistance to Negro and other minority salespersons in department stores and elsewhere has been found to be nonexistent.

Two social scientists, Dr. Gerhart Saenger of New York University and Miss Emily Gilbert of Columbia University, recently studied the attitudes of shoppers in New York City department stores employing both white and Negro salespersons working side by side. After a Negro and a white clerk had each finished with a customer, the observers followed him out into the street and interviewed him. All respondents were completely unaware that they had been observed talking either to a Negro clerk or to a white clerk standing near the

Negro, and thus the respondents' actual behavior could be compared with their opinions and prejudices.

Forty percent of the customers interviewed "failed to show any prejudice"; a similar number "approved of Negro sales personnel but showed stereotyped notions concerning Negro inferiority"; 21 percent "approved of Negro sales clerks except for more 'intimate' departments such as clothing, lingerie, or food"; the remainder—19 percent—"opposed the hiring of Negro sales personnel generally."

It is especially revealing that of the customers who objected to Negro clerks only in "intimate" departments, those who had seen Negroes in the food department never objected to their handling food, but did not want them in the clothing department. And those who had seen them in the lingerie and clothing departments objected only to Negroes handling food.

Furthermore, fully one-third of all customers talking to a white clerk standing beside a Negro salesperson, and one-fourth of all customers talking to a Negro clerk stated within an hour after this contact that they had never seen any Negro clerks in department stores. I think that evidence is extremely interesting.

The scientists explain these inconsistencies as follows: In the average American, prejudicial attitudes co-exist with his belief in the fundamental right of equal opportunity for all. The prejudiced person, if confronted with the presence of Negro sales persons, believes that others must have accepted the fact of these Negro clerks. The existence of a law against discrimination will further reinforce his reluctance to an object and run counter to what he believes to be public opinion.

The dire warning that business would be driven away from States which attempted to enforce fair employment legislation have proved utterly empty. In his message to the New York State Legislature on January 5, 1949, Governor Dewey said:

Business activity and employment remain at unprecedented levels for times of peace. The number of business establishments has increased by 5 percent in the last year. Only two-tenths of one percent of available working time was lost in labor-management disputes—only half as much as the national average. Last year the personal income of our people aggregated some \$27,000,000,000—an all-time high.

One is led to wonder precisely whose business interests are represented by those who claim that business is opposed to fair employment practices legislation. Early in 1948, 15 leaders of American business joined in signing a telegram which went to the then President pro tempore of the United States Senate, in which they said:

The great majority of employers in the United States, together with their fellow Americans, believe in the principle of nondiscrimination in employment. They know that such discrimination is uneconomic, in that it results in an unkind use of manpower and retards the development of purchasing power. They know it is undemocratic and un-American, being contrary to the principles upon which our Government was founded and upon which it endures. They know, finally, that it weakens the position of the United States in the eyes of the world and in the war of ideas between freedom and totalitarianism.

Among the outstanding businessmen who signed this telegram were William L. Batt, president of SKF Industries; Paul G. Hoffman, president of the Studebaker Corp. and now director of the ECA; Henry R. Luce, editor of Time, Life, and Fortune magazines; Nelson A. Rockefeller; Beardsley Ruml, chairman of the board of R. H.

Macy & Co.; and Spyros P. Skouros, president of 20th Century-Fox Film Corp.

These businessmen concluded their message by urging the passage by Congress of a permanent fair-employment practices law.

This is not an isolated or unrepresentative group; nor are the sentiments which they expressed confined to a small body of businessmen with radical ideas. On the contrary, there has been a major trend toward the creation of businessmen's committees for FEPC in States where fair employment practices legislation has been proposed during the past several years. And wherever fair employment practices legislation has been in force, statements by employers have testified to its effectiveness and to its desirability from the employers' point of view.

In March of this year, the Division Against Discrimination of the State of New Jersey wrote to 158 employers in all parts of the State, representing all sizes and all kinds of businesses, requesting their frank appraisal of the New Jersey antidiscrimination law. Of 65 replies received during the first week after the mailing of this letter, not a single one expressed a negative or an unfavorable reaction to the law. Among the respondents were such employers as the New Jersey Bell Telephone Co., the New York Shipbuilding Corp., and the St. Regis Paper Co.

One by one the arguments raised by the opposition are demolished by businessmen in statements and letters. The personnel manager of Pitney-Bowes, Inc. of Stamford, Conn., has said—

The difficulties one expects to encounter in initiating such a program—of fair employment practices—

materialize to the extent of about 5 percent of what was anticipated. The bogeyman of race prejudice can hardly fall to disappear when it is really brought into the daylight and put to the test of normal day by day contacts.

The president of one of the largest and longest established department stores in the State of Massachusetts says—

The principal value of the statute and of the constructive activities of the Commission has been in offsetting the fears so commonly expressed by employers during the committee hearings on the bill and elsewhere, the fear of legislating in an area where moral principles are to be the guiding factor, and the fear of the effect of employing members of minority groups in positions where they had traditionally not been employed. The statute and the policy of the commission have gone a long way to prove the truth of the famous phrase used by President Roosevelt's first inaugural, "The only thing we have to fear is fear itself."

Peter Grimm, former president of the Chamber of Commerce of the State of New York, says—

The accomplishment under the antidiscrimination law after 2½ years of trial appears to have operated effectively so far as I have been able to judge from talks with men of various lines of business. The administration of the law has been effective and salutary.

Mr. Eric Johnston, former president of the United States Chamber of Commerce, who has testified in favor of Federal fair-employment practices legislation, has been widely quoted. He is not the only former president of the United States Chamber to endorse such legislation, however. In a letter dated February 1, 1949, Mr. Julius H. Barnes, also a former chamber of commerce president, wrote:

The FEPC ideal appears to me to be one of even-handed justice and equal opportunity, assured by the authority of Government itself. The instinctive

American respect for equal treatment and for fair play would be strengthened and stimulated by such an attitude on the part of Government itself.

These are but a few quotations from the great volume of testimony which has accumulated from businessmen as to the workability, effectiveness, and salutary influence of fair-employment-practices law. Many businessmen have remarked upon the manner in which the various commissions and other administrative bodies have pursued their responsibilities under fair-employment laws. They are impressed with the fact that no punitive actions have been undertaken in any of the eight States in which laws are now in the statute books, even though all of them provide for public hearings and judicial proceedings. This has been seized upon by some as a demonstration that enforcement provisions in fair-employment-practice laws are superfluous.

Indeed, opposition to fair-employment-practices legislation has all but dwindled away except perhaps on this single point of enforcement. For example, the Cleveland Chamber of Commerce, which has been in the forefront of opposition to an effective FEPC law in Ohio, in January 1949 issued a booklet titled "How To Apply Co-operative Employment Practices," in which a number of fears about FEPC are, perhaps inadvertently, allayed. For example, the booklet, issued by the chamber of commerce, an opponent of FEPC, assures the businessmen to whom it is addressed that apprehensions that an employer's business may be injured by hiring minority-group workers because customers will be driven away are not well founded.

Experience in other cities demonstrates—

the booklet says—

that customer reaction to employment of minority groups has been generally favorable and there has been no noticeable decline in business.

The Cleveland Chamber of Commerce also reassures its readers that the introduction of minority groups will not result in degrading of jobs or in decline of health standards; that the doubts and misgivings of relatives and personal friends as to mixed employment are—

largely theoretical * * * and disappear in a short time as minority group employees are not a novelty and have come to be recognized through school and civic associations, as individuals—

that apprehensions about the use of common sanitary and eating facilities by mixed groups of employees "is imaginative rather than real"; and that "untoward incidents at social affairs attended only by employees rarely develop."

When such arguments in favor of fair employment practices are advanced by the opposition, I think we may assume that the opposition to fair-employment-practices legislation is—to borrow a phrase from the Cleveland Chamber of Commerce—"imaginative rather than real."

The sole remaining objection is to enforcement. But without exception the commissioners of State fair-employment laws have testified that enforcement provisions are absolutely necessary; that, as Mildred Mahoney, chairman of the Massachusetts FEPC testified—

the very fact that it [legal sanction] is part of the procedure has had its effect and helped make possible the really remarkable record of cases settled through conciliation alone.

The Library of Congress Legislative Reference Service report already referred to quotes an account by Kings Ransom, writer for

the London Economist and the Des Moines Register and Tribune, of a 2-week survey of the workings of antidiscrimination laws in New York, New Jersey, Connecticut, and Massachusetts. Ransom says of all four States:

In company after company, in spite of theoretical willingness to employ Negroes, it took the law to get employers past the hump of dreading what customers and other employees might say. Those who are prejudiced are particularly likely to be deferential to authority. So the mere passage of a law with teeth in it, before any actual attempt to enforce it, brings some changes in employment practices in order to conform.

This general observation is borne out by experience with the employment practices of some large corporations. At the top of a 1948 application form of the Goodyear Tire & Rubber Co. appears the warning, "This form not to be used in the States of Connecticut, Massachusetts, New York, and New Jersey." The form includes questions about religion and lineage and demands that a photograph be attached. Although there were fair-employment-practice laws in seven States in 1948, the corporation warned against the use of this discriminatory form only in the four States whose laws contained enforcement provisions.

Similar evidence of the ineffectiveness of laws without enforcement powers comes from Chicago, which has a fair-employment-practices ordinance under which all contractors to the city are obligated not to discriminate in employment because of race, color, religion, national origin, or ancestry.

The Illinois Interracial Commission, in its survey to which I have referred, found that in the absence of any agency to check on compliance, 85 percent of the firms which contract to the city use discriminatory application forms, even more discriminatory than in Illinois industry as a whole.

With few exceptions—
comments the report—

the 51 firms analyzed which supply goods and services to the city of Chicago on a contract basis, violate their signed pledges to adhere to fair-employment practices.

As a group they provide substantially less over-all employment to nonwhite workers than does Illinois industry as a whole, substantially less than the proportionate population of nonwhites in Chicago would indicate. * * * It is apparent that 9 out of 10 nonwhites employed are at the very lowest occupational levels, and that white-collar jobs for nonwhites are not available in these firms.

Businessmen understand the function of the enforcement provisions of the proposed Federal fair employment practices bill as that of assuring compliance, not of punishing infractions. The 15 prominent businessmen who signed the telegram to which I referred earlier, urging enactment of a Federal bill, said in that message:

We like the reliance which the bill puts upon education and conciliation. On the other hand, we recognize the necessity of governmental sanctions when conciliation breaks down.

It is significant in this connection, that Oregon, which formerly had a fair employment practices law without enforcement provisions, just this year adopted an amended law, providing enforcement powers. It also is significant that the States of Massachusetts, New Jersey, and Connecticut all had interracial good-will commissions, seeking to secure voluntary compliance with fair employment practices, before adopting their present effective FEPC laws. Had those commissions

been found inadequate there would have been no reason for the adoption of statutes.

The influence of effective enforcement provisions is perhaps nowhere better illustrated than in a comparison of the accomplishments of the State Commission Against Discrimination in New York with that of the wartime President's Committee on Fair Employment Practices in dealing with certain railroad brotherhoods. These brotherhoods had resisted all the powers of persuasion and pressure which the wartime FEPC had been able to bring to bear upon them to abandon or modify their policies of complete Negro exclusion. But under the New York law, they have been led to amend their constitutions in order to correct this inequity. Commissioners of the New York State Commission Against Discrimination are convinced that without the enforcement provisions of the New York law, they never could have accomplished this.

It seems to me highly relevant, in connection with this discussion of the effective and smooth workings of State fair employment practices laws, that H. R. 4453, in section 7 (a), empowers the Federal Commission which it would create—

by agreement with any agency of any State, Territory, possession, or local government, to cede to such agency jurisdiction over any cases even though such cases may involve charges of unlawful employment practices within the scope of this act, unless the provision of the statute or ordinance applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this act or has received a construction inconsistent therewith.

This clause should put a quietus on that part of the opposition to Federal fair employment legislation which raises the cry that such legislation would infringe upon States rights. It clearly bespeaks the intent of the framers of this legislation to permit the enforcement of fair employment practices to be turned over to the States wherever and whenever the States adopt effective legislation to protect the rights of minority groups to equality of employment opportunity.

Bills for the enactment of a Federal fair employment practices law have been before the Congress continuously since 1944. Extensive hearings have been conducted before committees of both the House and the Senate. Countless studies have been made and data accumulated showing discrimination in employment to be widespread and growing. Volumes of testimony have been taken recording support for FEPC legislation by major religious, labor, and civic bodies throughout the country. "The testimony of these witnesses," says the majority report of the Senate Labor and Public Welfare Committee, "representing more than 60,000,000 of our citizens, demonstrates the desire of the overwhelming majority of our citizenry that this bill be enacted into law."

A permanent Fair Employment Practices Commission has been pledged by both major parties. On no less than four separate occasions, congressional committees have reported favorably on such legislation with the recommendation that "it do pass." Nevertheless, no FEPC bill has ever been brought to a vote.

I realize that there are other civil-rights measures before the Congress, measures to abolish the poll tax as a prerequisite to voting in Federal elections, measures to make the heinous crime of lynching a Federal offense, measures which the organization I represent favors

and hopes will be passed. But it is the considered judgment of the organizations represented in the National Community Relations Advisory Council that of all the measures comprising the civil-rights program, FEPC is the most vital.

The victims of discrimination in employment are not the subjects of brutal physical assault by enraged mobs; they are the victims of a quiet, unspectacular, even "respectable," but nonetheless vicious deprivation of the equal right to work. The victims of discrimination in employment are not confined to the seven Southern States, as are those who are deprived of their franchise by the poll-tax laws. They are not the residents of any particular geographic area, nor the members of any one particular group, nor of any single segment of our economy. Discrimination in employment, as I have shown, affects workers in the industrial Northeast, and in the agricultural West, as well as in the South. It falls upon every minority group in our population—and the minorities taken together comprise a major portion of our citizenry.

Deprivation of any citizen of any of his civil rights is reprehensible and should be corrected. But no other right is so fundamental as the right to work, to seek and hold employment, and to enjoy the opportunities for advancement, on a basis of equality. For the right to work is in our economic order the right to survive as an independent, self-respecting person. And to this right all other rights are subordinate; without this right, no other right has meaning or purpose. Therefore, while we heartily favor the early realization of the entire civil-rights program, we hold strongly that the prohibition of discrimination in employment because of race, color, or nationality should take precedence over other parts of that program.

There are no genuine parliamentary barriers to the enactment of such legislation. The opposition cannot muster a sufficient majority to defeat a fair-employment-practices bill, and spokesmen for both political parties have asserted, without convincing contradiction, that such parliamentary maneuvers as the filibuster can be overcome by determined and skillfully conducted support of the measure.

We have shown, I think, that the need for Federal fair-employment-practices legislation is serious and growing; that the public demands it; and that on every ground of morality, economic self-interest, and national self-respect such legislation is long overdue. This Congress has the responsibility—yes, and the extraordinary opportunity—to meet this need, to satisfy this public demand, to take this wise and courageous action, by passing H. R. 4453. I urge you to report favorably this bill which is before you and to throw all your influence to its support, to the end that it may promptly be enacted into law.

Thank you very much.

Mr. POWELL. That is an excellent presentation. I want to thank the organization for its steadfastness to this policy and philosophy that you have outlined. Mr. Burke.

Mr. BURKE. I just have one question. You mentioned the good will of the community in relation to the commissions that have been set up, and although their work has been valuable, as far as spade work is concerned, it is true that more effective measures, such as this bill before us, had been found necessary. Isn't it also true that the commissions themselves have generally made these recommendations?

Mr. KANE. There is no question about it. In every State where there is an FEPC law they found they needed enforcement powers or no progress would be made whatsoever. In States such as Oregon, they had a statute without enforcement powers and found it necessary to amend it. In many States which now have effective laws they had for years tried to attack the subject on an educational basis and made no progress whatsoever.

Mr. BURKE. Usually the commission which was established made the recommendation itself and took the lead in asking for this type of legislation.

Mr. KANE. You are quite correct, sir.

Mr. POWELL. I think it is important to emphasize what Mr. Kane pointed out. In the city of Chicago, where years ago the Negro enjoyed more economic advantages than anywhere else, that no longer is true there. There the employers signed a sort of voluntary agreement, a voluntary FEPC, and the result is that the Negro in Chicago today has less job opportunities than Negroes elsewhere in the State of Illinois. In other words, if you have an enforceable FEPC the people will obey it, but people will just hide behind the FEPC philosophy with no powers.

Mr. KANE. We have yet to find any evidence of any voluntary plan being effective.

Mr. POWELL. Thank you, Mr. Kane.

Mr. KANE. Thank you, sir.

Mr. Sigal.

STATEMENT OF BENJAMIN C. SIGAL, AMERICAN CIVIL LIBERTIES UNION

Mr. SIGAL. Congress has an obligation to insure that all citizens should have equal rights in employment in interstate commerce. This principle should apply to employers and associations of workers alike so that the protection of Federal law may be extended to the right to work on the basis of men's ability regardless of race and religion.

The principle has been tested by the wartime Federal agency (FEPC) and by the experience of four States (New York, Massachusetts, Connecticut, and New Jersey). The operation of the State statutes has won over to the side of fair employment practice some of its most vigorous opponents. Fears of coercive measures against employers have been shown to be unfounded. Such measures have not been necessary to secure compliance. General recognition of the justice of fair practice is in the spirit of the times. Even the fears of coercion in the South are unfounded in the light of the methods used both by the Federal Government in wartime and by the States.

The chief objection to such a bill is apparently that an employer's relationship with his employees is a private matter not subject to regulation by the State in hiring or promotion. But Congress has already legislated in regard to private employment in many ways. It has regulated collective bargaining and the closed shop. It has barred employment in private industry under certain conditions to Communists and Fascists. It has assumed under the interstate commerce clause wide powers over employing policies.

The bill would not compel any employer to hire any particular person. It would ban only the practice of racial or religious discrimination—by employers and labor unions alike.

The charge that the bill is an interference with States' rights is answered first, by the fact that the Supreme Court can be trusted to protect these States' rights guaranteed by the Constitution, and secondly by the fact that States' rights are protected by the bill's omission of employers not engaged in interstate commerce or in operations not affecting interstate commerce. Section (a) provides that the Commission may agree with any State or local FEPC to cede to it all jurisdiction over the cases before it, unless local law is inconsistent with Federal law. Thus, if a State desires to deal with discrimination, it may.

The charge that the compulsory features of the bill are unfair is without merit. The Commission must investigate charges of discrimination, and if it finds probable cause it must then follow the methods of conference, conciliation, and persuasion. It cannot be too strongly emphasized that in the four States in which FEPC has already been in operation for a substantial length of time, there has been, we believe only one instance in which these informal methods have failed to remedy the complaint. Compulsion is necessary behind any law. If informal methods do not work, what form would compulsion take? A full hearing must be held before the Commission, in which the employer has the fullest opportunity. If the Commission deems the employer guilty of discrimination, it issues a cease and desist order, which may be enforced only upon petition to the courts, and the courts under certain conditions may order that additional evidence be taken. After such full and fair procedure, an employer's freedom to hire, but not to discriminate, could not be in the least impaired. If it is argued that it is difficult to determine discrimination the answer is that all courts and administrative agencies must and do determine more difficult factual questions. The very difficulty of proving discrimination would insure that no one will be unjustly held guilty by the Commission or by the courts.

The interest of the ACLU as a national agency of 30 years' record in supporting for everybody the principles of the Bill of Rights, is in the extension of those rights to industry. It is not enough to urge equality before the law in political rights regardless of race and religion; the principle is as valid for our democracy as applied to a man's right to equality in employment.

Federal law alone can fix fair standards for the Nation. Federal law alone will serve notice to the world that our democracy means in fact what we profess in principle.

Mr. POWELL. Thank you very much.

There will be a joint session of the Congress in a few minutes to welcome President Dutra, of Brazil, and because of that the committee cannot hear the next witness. The next witness can come back this afternoon.

The committee now stands adjourned until 1:15. We will meet at 1:15 to hear the CIO on a little dispute that has arisen, which we are not going to let get out of hand.

(Whereupon, at 12 m., the subcommittee recessed to 1:15 p. m. of the same day.)

AFTERNOON SESSION

(The subcommittee met at 1:15 p. m., pursuant to the taking of the recess.)

Mr. POWELL. The committee will come to order. Our first order for the afternoon is the representatives from the CIO, Willard S. Townsend, member of the executive board, and secretary of the national CIO committee to abolish discrimination in employment; and also George L. B. Weaver.

I understand they have counsel with them.

Will you kindly give your name.

Mr. HARRIS. I am Thomas Harris. I am here as counsel to Mr. Townsend. I am assistant general counsel of the CIO and the United Steelworkers of America.

TESTIMONY OF WILLARD S. TOWNSEND, INTERNATIONAL PRESIDENT, UNITED TRANSPORT SERVICE EMPLOYEES, MEMBER OF THE NATIONAL EXECUTIVE BOARD OF THE CIO, AND SECRETARY OF THEIR COMMITTEE TO ABOLISH DISCRIMINATION, ACCOMPANIED BY GEORGE L. P. WEAVER AND THOMAS HARRIS

Mr. TOWNSEND. My name is Willard S. Townsend, international president, United Transport Service Employees, member of the national executive board of the CIO, and secretary of their committee to abolish discrimination.

Mr. Chairman, before I begin my statement I would like to express my thanks for extending the courtesy to appear here this afternoon.

This original statement was to be given by Mr. James B. Carey, who is chairman of our committee, and secretary-treasurer of the Congress of Industrial Organizations, but due to the fact that he was detained at a board meeting I have been asked to come in his place.

We appear here today in support of H. R. 4453, a bill designed to promote and secure fair employment practices by eliminating discrimination in employment because of race, creed, or color. This bill declares it to be the policy of the United States Government that the right to work and seek work shall be guaranteed without discrimination because of race, creed, color, national origin, or ancestry.

This is neither new or experimental legislation. Not only has an impressive body of experience been accumulated demonstrating the successful application of this principle, but it is successfully operating today in the States of Connecticut, Massachusetts, New Jersey, and New York. Similar legislation has been adopted recently by the legislatures of Oregon, Washington, New Mexico, and Rhode Island.

The Congress of Industrial Organizations from its inception has attempted to meet foursquare the problems resulting from our American discriminatory patterns. The preamble of our constitution eloquently sets forth our creed in the following manner:

* * * Since its formation in 1935, the CIO has grown strong because the service it has given to American workers has made ours a better America. We of the CIO are the sons and daughters of ancestors who came to America to escape absolutism in government, bigotry in religion, and economic exploitation. We of the CIO are proud of this American quest for liberty and the struggle for equality. We seek, today, to implement this great heritage. We are dedicated to the responsibility for further economic opportunity, religious freedom, and political participation.

Our constitution follows up this statement by setting forth as the first objective of our organization—

To bring about the effective organization of the working men and women of America, regardless of race, creed, color, or nationality, and to unite them for economic action into labor unions for their mutual aid and protection.

From the time of the establishment of the first Committee on Fair Employment Practices, the CIO has given strong support to the passage of legislation, municipal, State, and Federal, which will serve to implement the principle of equal opportunity for all.

We vigorously supported the passage of ordinances providing for a Fair Employment Practice Commission in the cities of Cincinnati, Chicago, Milwaukee, Minneapolis, Philadelphia, and Cleveland. Similarly, we vigorously supported the passage of like statutes in the States of New York, Connecticut, Indiana, Massachusetts, New Jersey, Wisconsin, Washington, Oregon, New Mexico, and Rhode Island. We have time and again set forth our views in favor of passage of an FEPC law at the Federal level.

This position of the CIO has been unanimously endorsed by every CIO convention since our Detroit convention in 1941. Unlike the past, the workers of America today are outspoken in their demand that they be freed of industry's traditional patterns of discrimination. We in the Congress of Industrial Organizations are acutely aware of the need for national legislation in this field.

The CIO realizes, however, that constitutional provisions, no matter how eloquent, are not enough. We therefore implemented our constitutional obligation to guarantee equal opportunity to all of our membership by the creation in 1942 of the CIO committee to abolish discrimination.

Many of our affiliated unions have created similar administrative structures to promote fair-employment-practice policies within the industries where they have jurisdiction. Through the machinery and the active efforts of our officers we have enjoyed a measure of success in fighting discrimination in employment.

Although we have made substantial progress, we have been very conscious of the fact that our attempts to solve this problem are limited, and we cannot complete the job in a satisfactory manner unless we are supported by governmental action. The problem is much more broad and much more difficult than a union can solve itself. We have been aided considerably by the passage of city and State fair-employment-practice legislation, but our efforts must be supplemented by the passage of comparable legislation on the part of the National Government.

The Congress of Industrial Organizations strongly supports H. R. 4453 because it translates into legislative reality the right to employment at a worker's highest skill, regardless of difference of race, or creed, anywhere in America. In addition, this bill insures that this principle will become more than a pious platitude through its enforcement machinery. The essential weakness of the President's Fair Employment Practice Committee, which operated during the recent war, was its lack of enforcement power. Having no power to enforce its orders, it operated effectively only where the main social forces of the community supported a fair treatment of minorities.

It must be remembered, in considering the application of this principle today, that many of the compulsions which aided the wartime

FEPC are removed. Today a fair-employment-practice statute patterned exactly on the model of the Executive order creating the wartime FEPC could only point up to the weak spots in our industrial life. This would be a source of frustration, because such a commission would find it extremely difficult, if not impossible, to change the discriminatory patterns of many communities without this enforcement power.

We support this principle for the more important reasons that to deny any person employment or economic opportunity because of race, creed, or color, is contrary to our basic ideals of democracy, is anti-social, and economically stupid. We fought a war against racial intolerance, and we must continue to extend the areas of human liberty and decency, if we are to win the peace.

America cannot assume leadership for the rest of the world and instill confidence in the peoples of the world with respect to democratic principles unless we are prepared to destroy intolerance and discrimination in employment opportunities right here at home. We believe that freedom, like peace, is indivisible; that unless everyone has freedom, each person's freedom is limited accordingly.

We are convinced that the passage of this bill is not only a matter of social justice to the individual, but a matter of grave economic concern to the Nation. If we deprive millions of people of the opportunity to make their maximum productive contribution, it means that we are robbing the American economy of the tremendous wealth that our total energy and capacity could produce. It is not only a matter of justice, but serious economic concern at a time when we are trying to achieve maximum production in order to gear our productive resources to meet the many challenges that the end of the shooting war produced.

Racial intolerance in employment does not create wealth; to the contrary, it destroys potential wealth. At present, our task is to mobilize our forces to provide an increasingly higher standard of living in America, and still have enough left over to help in the job of rehabilitating the economies of the rest of the free world. That is the most important job that America has, and our economy and productive capacity is the greatest single asset that free men have in the world. If we continue to deny to millions of people, because of race, creed, or color, an opportunity to make their maximum contribution in our economy, we are denying to the economy the benefits of their energies, their skills, their efforts, which results in our penalizing the whole Nation and the whole world by not taking advantage of that tremendous reservoir of creative and productive effort that could be applied to our economy.

We are in agreement with this bill, for we believe that the right to work and to earn, thereby providing the best living for one's family, is a fundamental and basic right that must be protected by law—in the language of the bill, it is a "civil right of all the people of the United States." The statute books of our Nation are replete with laws that protect the property rights of great corporations; we believe that the right to a job on the part of a worker, at his highest skill, is a most valuable property right and therefore should be protected by law.

When H. R. 4453 is passed, it will be a new and clear-cut declaration of this principle; it will make clear that we believe that every

American in 1949 is entitled to life, liberty, and the pursuit of happiness, without discrimination. You cannot pursue happiness unless you can get a job, and if you are blocked from equal job opportunity because of race, creed, or color, you are being denied the fundamental principles of Americanism.

The Congress of Industrial Organizations takes in all workers, regardless of race, creed, or color. They have the same membership status—there is no second-class membership in our organization. However, since the major segments of American industries and unions are organized and operated on a national basis, our efforts in this field must be supplemented by legislation on a national basis.

In the States and cities that do not have to conform to minimum standards in this area, our basic problem arises at the hiring gate. Inside our unions, we have done what we think is a very fine job—not perfect; we are continually working to improve it—but we have done a fairly good job in giving people inside the factories, once they are employed, opportunity for promotion based on fitness, ability, and seniority, rather than on race, creed, or color. We have established this principle fairly well; our great difficulty remains in convincing the company to agree to apply the principle of nondiscrimination at the hiring gate.

In the great majority of instances, the union has no control over hiring procedures; it is only after an employee is hired by the company that he comes under our jurisdiction, and not until then do we have anything to say about his status in the plant. Only by the passage of this bill will machinery be provided by which discrimination at the factory hiring gate can be dealt with effectively and fairly.

I would like to call the attention of this committee specifically to the fact that in the cities and States where this legislation has been operating, and likewise during the war when the Nation operated under the fair-employment-practice policy promulgated by President Roosevelt through Executive order, not one iota of evidence has been introduced to show that anyone was hurt in the slightest—physically, mentally, or morally—by being asked to work in the common cause of our country side by side with his fellow citizens of the other races, colors, or creeds.

In conclusion, I would like to state that it is our fundamental conviction that only by guaranteeing access to employment on equal terms for all Americans can we take the most important step toward releasing the majority as well as the minority from the burden of poverty, disease, crime, and unused talents which present the high cost of discrimination. The lifting of this burden can mean opening the way for full participation, at their highest skills, in the national production effort by the one-tenth to one-third of our people now denied this right.

Higher levels of employment and wages mean greater purchasing power, greater demand for the products of our factories and farms, and the increasing of chances to keep America at work and at peace. Fair employment is an essential component of any full-employment program which seeks to reach the goal of security and abundance without sacrifice of domestic basic freedoms.

Our convictions arise primarily from our devotion to the democratic principles on which this country and the CIO were founded. These

convictions have been buttressed by my practical experience as an officer of the Congress of Industrial Organizations.

In addition to my responsibilities as secretary-treasurer of the CIO, I have had the privilege of serving as chairman of the CIO committee to abolish discrimination since its inception. In addition, I was honored to serve as a member of the President's Committee on Civil Rights, whose findings President Truman has wholeheartedly endorsed and were subsequently ratified by the Democratic convention, meeting in Philadelphia in July 1948. This bill now before your committee seeks to put into effect an important recommendation of that report.

I am convinced that only by extending the frontiers of human and civil rights in America can we build the type of firm cornerstone for world peace that we all desire. In the words of the report of the President's committee—

The United States is not so strong, the final triumph of the democratic ideal is not so inevitable, that we can ignore what the world thinks of us or our record.

Thank you, Mr. Chairman.

Mr. POWELL. You have Resolution 8 attached. Do you wish that included in the record?

Mr. TOWNSEND. I do, sir. This was adopted at the 1948 convention.

Mr. POWELL. Without objection, it will be incorporated in the record.

(The resolution is as follows:)

RESOLUTION No. 8—CIVIL RIGHTS AND PROTECTION OF DEMOCRACY

The relationship among the various racial and ethnic groups which make up our Nation is a vital matter of national and, indeed, international concern. This fact has been recognized by the United States in the several treaties entered into upon the conclusion of the first and second World Wars, treaties which contain provisions requiring the signatories not to discriminate against their racial minorities.

The Charter of the United Nations has been accepted by the people of America and ratified by the Senate of the United States and signed by the President. Under the provisions of this Charter, the United States solemnly undertook the responsibility, with other signatories, to promote freedom for all without distinction as to race, language, or religion. These same ideals and principles are inherent throughout the Declaration of Independence and Constitution of the United States. Time and again this has been enunciated as the public policy of the United States.

The Congress of Industrial Organizations was founded upon this self-same principle of freedom, equality, and equal opportunity for all Americans. In August 1942 the CIO Committee to Abolish Discrimination was established to implement this principle. The CIO's record of accomplishment in this area has been far in advance of any other group in the United States. In our southern organizing drive we are daily striking telling blows for freedom and against discrimination throughout the South.

Although freedom from fear is more fully realized in America than in any other country, there are still groups in our population who are not equally free from fear. Organized groups have fanned hatred and intolerance and have struck fear into the hearts of men and women because of their racial origin or relation and political beliefs. Due process of law is denied because of race, color, creed, or political beliefs. Equal opportunity is denied because of race, color, creed, or national origin. Equal access to places of public accommodation is denied because of race, color, or creed.

The workers of our Nation are among the chief victims of this drive against our basic liberties. The Taft-Hartley Act has marked an intensification of this movement against freedom. The legislative attack upon the basic rights of labor has been accompanied as well by an attack from the courts. During the past year scores of injunctions have been issued by courts restraining the constitutional rights of free American workers.

The growing hysteria which has blinded many to our American traditions of democracy has taken many forms. The attack upon the rights of labor has been accompanied by a persecution of labor leaders. Reintroducing the pattern of repression of the 1920's, deportation proceedings have been commenced against labor leaders who are not citizens and who have resided here for many years. Labor leaders have been held for deportation solely on the ground of their alleged political beliefs and denied bail. Control over immigration has been arbitrarily used to bar Canadian union leaders and convention delegates from entering this country. Dangerous inroads on a free labor movement have been made by the Atomic Energy Commission.

The infamous Thomas-Rankin House Un-American Activities Committee has demonstrated its complete disregard for the constitutional rights of minorities with whose ideas it disagrees. As in the past it continues to slander minority groups in our society and engage in witch hunts in order to stir up hysteria, to use its authority for anti-labor purposes, and, as in the past, it continues to function as a kangaroo court denying to accused persons the right to be informed of the charges against them or the opportunity to answer such charges.

This committee, with its long record of repression and anti-labor bias, sponsored the Mundt-Nixon bill. This bill, with its dangerous threat to freedom of speech and freedom of association and its provisions which could readily be turned against labor organizations, failed to become law after it was denounced by large groups of freedom-loving Americans.

Preservation of civil liberties is the highest duty of every government, whether it be Federal, State, or local. Wherever the law-enforcement measures and the authority of Government are unused or inadequate to discharge this primary function of government, this authority must be strengthened.

Recognizing these facts, President Truman created the President's Committee on Civil Rights on December 5, 1946, with the specific responsibility of preparing for him a report outlining more effective means and procedures for the protection of the civil rights of the people of the United States. The CIO was represented on this committee by Secretary-Treasurer James B. Carey.

The finding of this committee, in the form of the report, *To Secure These Rights*, will rank in our history as a charter for human dignity and freedom. With courage and devotion to the principles contained in this report, President Truman requested the regular and special session of the Eightieth Congress to translate this report into legislative reality.

The CIO unreservedly supports President Truman's civil rights program. We are determined to secure the adoption of these recommendations on the Federal and State level. We feel that the enactment of this program will enable America in actual practice to show the world that we intend to close the gap between our stated ideals and our day-to-day practices. In addition, we feel that segregated community patterns, wherever they exist, should be challenged and eliminated, in order to prevent the dead hand of the past from controlling the behavior of succeeding generations: Now, therefore, be it

Resolved, That the tenth constitutional convention of the CIO hereby pledges itself to continue the struggle to achieve the full, equal enjoyment of all the rights guaranteed in the Constitution of the United States, regardless of race, color, creed, or national origin.

We demand:

1. The passage of Federal and local fair-employment practice acts.
2. The abolition of segregation in the armed forces.
3. The enactment of a Federal anti-lynching bill.
4. The passage of Federal and State legislation outlawing poll taxes and other restrictions on the right to vote.
5. The passage of measures to ban segregation in interstate travel.
6. The enactment of safeguards against racial discrimination in Federal appropriations for State aid.
7. The enactment of civil-rights laws in all States which now do not have such laws eliminating segregation.
8. The abolition of the Thomas-Rankin Committee.
9. The enactment of laws protecting aliens long resident in the United States and regularizing their status.
10. The establishment of guarantees to protect the freedom of thought and the freedom of political views of Government workers and the revocation of Executive Order 9835.

Mr. TOWNSEND. May I, in addition, Mr. Chairman, add as a part of our material a resolution passed by our executive board yesterday that deals with the matter of the racial situation in certain sections of the South.

Mr. POWELL. I think you had better read this. You do not have any other copies of it?

Mr. TOWNSEND. Yes; I have.

Mr. POWELL. Do you have any objection to reading this?

Mr. TOWNSEND. No; I do not.

Mr. POWELL. I think you had better read it.

Mr. TOWNSEND. The reason I am putting this in, Mr. Chairman, is because I loathe the idea of bringing to a body such as this the inter-organizational quarrels that go on within our family.

Mr. POWELL. I do not want to interrupt, but I would like to say this: These hearings are set up to investigate all aspects of discrimination in employment, and, as such, we will go into all such matters, but when these hearings depart or tend to depart from that specific purpose the chairman would rule out of order, whoever the witness may be.

It so happened that yesterday in the course of a presentation made by a group of iron-ore miners from Bessemer, Ala., charges were made, and they were not specific. I have gone over the testimony carefully, and it was not definite at all that due to the policies of a union—which they did not mention—Negro workers in this plant were being discriminated against in hiring, and the ratio, they said, was about 100 whites to 1 Negro. On the basis of that charge, I think it is apropos that you read this. I have not seen it, but I imagine it is in answer to that.

Mr. TOWNSEND. Yes; we feel, Mr. Chairman, inasmuch as there has been an indictment made against a constituent member of Congress of Industrial Organizations and because we had no opportunity to express our views we would like to point out, this matter was brought before our national executive board by the same group. Mr. Murray appointed me some weeks ago to go in the area and make a study of it, and others made a study of the situation, and it was brought before the executive board, and the union who sponsored the matter was brought before the committee.

Mr. POWELL. Will you kindly read it?

Mr. TOWNSEND (reading):

RESOLUTION CENSURING INTERNATIONAL UNION OF MINE, MILL, AND SMELTER WORKERS

Whereas (1) the constitution of the Congress of Industrial Organizations, unanimously adopted, declares that the CIO opposes "all those who would violate American emphasis of respect for human dignity, all those who would use power to exploit the people in the interest of alien loyalties"; and

(2) The CIO constitution further states that "racial persecution, intolerance, selfishness, and greed have no place in the human family"; and

(3) The International Union of Mine, Mill, and Smelter Workers, disregarding its duties as an affiliate of the CIO, has been carrying on a campaign of vilification, calumny, slander against, and disloyalty to, Philip Murray, president of the CIO, against the CIO itself, and against the United Steelworkers of America, CIO, of which Mr. Murray is also president; and

(4) This unspeakable campaign follows vicious actions of the International Union of Mine, Mill, and Smelter Workers in the Red Mountain section near Bessemer, Ala., in which that union deliberately and with malice aforethought

attempted by every tactic possible to split the white and Negro workers, using the Communist weapon of fear, intolerance, racial hatred, threats, and other methods which have no place in the decent ranks of trade-unionism; and

(5) The International Union of Mine, Mill, and Smelter Workers attempted to blow a minor incident, involving two men, into a major international episode and use that incident to spread false accusations against Mr. Murray, the USA, and the CIO, when the union knew full well that one of its officers had brought on the incident, during which he was struck, by insulting the integrity and manhood of a rank and file iron ore worker who serves as an unpaid local president and who is not on the pay roll of CIO, USA, or of the union: Now, therefore, be it

Resolved:

(1) That the executive board of the CIO, assembled in the city of Washington, D. C., on the 17th day of May 1948, hereby strongly condemns the actions of the International Union of Mine, Mill, and Smelter Workers and censures its officers and employees who have attempted to besmirch the name of Philip Murray, of the CIO, and of the USA; and

(2) That the executive board denounces the use of racial prejudice, threats, and intimidation by the International Union of Mine, Mill and Smelter Workers in the Bessemer area; and

(3) That the executive board assures the white and Negro ore workers of the Bessemer area that the activities of the International Union of Mine, Mill, and Smelter Workers in that region are not those of real CIO people and pledges the full support of CIO in bringing decent wages and working conditions to all workers, regardless of race, creed, color, or national origin; and

(4) That the executive board of the CIO votes fullest backing to the officers and locals of the Bessemer Range in their efforts to achieve their demands.

Thank you, Mr. Chairman.

Mr. POWELL. Will you answer this question:

You say this is an interorganizational fight, but has there been any discrimination in the hiring of Negroes by virtue of the activity of these two groups of labor?

Mr. TOWNSEND. Mr. Chairman, I could find none. I visited—

Mr. POWELL. You personally visited?

Mr. TOWNSEND. I spent some 5 days there, in Bessemer and Birmingham. We are not responsible for the activities of the employer, but, so far as the union is concerned, I can assure you there was nothing on the part of the CIO people to deny working opportunities to Negroes.

Mr. POWELL. Is it true whites are being hired there at a ratio of 100 to 1?

Mr. TOWNSEND. That is a misstatement of fact. That is ridiculous, and is another one of those inflated stories.

Mr. POWELL. What is the percentage of Negro workers and white workers in the Bessemer plant?

Mr. TOWNSEND. I have no way of knowing, because I only counted the election votes. There is something over 4,000, I think. I had no way of telling.

Mr. POWELL. They were secret ballots?

Mr. TOWNSEND. Secret ballots; yes.

Mr. POWELL. And you had no way of telling the basic membership?

Mr. TOWNSEND. No.

Mr. POWELL. Did it look like it was 50-50?

Mr. TOWNSEND. No; there were more Negroes with the mine, mill, and smelter workers, but I might point out there was intimidation. The new local that was set up elected to its vice presidency a Negro. I talked with this Negro and asked him why he did not attend the

meetings, and he said because the other side had threatened his family.

And, so the whole story, while we wanted to keep it within our ranks, has been aired here and, may I again say, Negroes are members of all local unions in the Birmingham area that I have talked with.

Mr. POWELL. There are no separate locals?

Mr. TOWNSEND. No.

Mr. POWELL. In the final balloting which I notice in another resolution which Mr. Weaver handed to me, but which you have not read, there is a statement on page 2, article 8, there are five divisions, the Moscada division, the Ishkooda division, the Dolonah division, the TCI sintering plant, and the Wononah division.

Are there other divisions in addition to those five?

Mr. TOWNSEND. These are the five involved in this.

Mr. POWELL. And each one voted about the same way?

Mr. TOWNSEND. I imagine so. I do not know that they all voted into the LIU's, which very recently were chartered into the United Steelworkers.

Mr. POWELL. I want to get this statement from you: Because of the activity of the United Steelworkers in this area there has been no discrimination brought about from the hiring of Negroes?

Mr. TOWNSEND. I am quite sure there has been for the simple fact—

Mr. POWELL. That is all this committee is interested in. We are not interested in anything else. But you can categorically say there is no discrimination in hiring of Negroes by virtue of this fight?

Mr. TOWNSEND. I can safely say that.

Mr. POWELL. That is all.

Mr. Burke?

Mr. BURKE. I quite agree with our chairman, Congressman Powell, that this committee is not set up for the purpose of being a sounding board for some international squabble, but yesterday, during the testimony, the allegation was made, and it ran something in this nature, that over a period of about a year prior to the election there was a condition in Bessemer where a union in collusion with a company, the Tennessee Coal, Iron & Railroad Co., was allegedly taking jobs away from Negroes for the purpose of robbing the existing union of its bargaining rights and, I think, since you have been down there and investigated that situation you could well answer that charge.

Mr. TOWNSEND. Mr. Congressman—

Mr. BURKE. I admonished them then that that was a very serious charge.

Mr. TOWNSEND. That is right. The same charge was brought at our board meeting. It was investigated and there was no basis of truth found in it. To charge responsible unions with collusion is a bad charge and, therefore, we went into it and investigated it and we think it is an untruth. The basis of this whole thing is the minority group of people are being made the pawns in a matter that does not relate to the economic welfare of those people.

Mr. BURKE. That is the usual method in situations of that sort, is it not?

Mr. TOWNSEND. Yes.

Mr. BURKE. That is all, Mr. Chairman.

Mr. POWELL. I have no other questions to ask, and if the representatives of the International Union of Mine, Mill, and Smelter Workers have anything to say as regards this one specific point, discrimination of hiring, I will be glad to hear them for a few minutes, but if they do not have anything on this one point I must rule them out of order, because that is the only point before the committee, discrimination in hiring.

I understand the president is Mr. Reid Robinson, and he has with him Mr. Frank Allen and Mr. J. P. Mooney.

STATEMENT OF REID ROBINSON, SECRETARY, INTERNATIONAL UNION OF MINE, MILL, AND SMELTER WORKERS, ACCOMPANIED BY FRANK ALLEN AND J. P. MOONEY

Mr. ROBINSON. Mr. Chairman and members of the committee, you had read to you a resolution here in which the International Union of Mine, Mill and Smelter Workers were condemned by the National Executive Board of the Congress of Industrial Organizations because of several alleged activities in the Birmingham iron ore mining area.

There is on the record before this committee an accusation against this organization which, if we confine ourselves to the specific point outlined by you, as chairman, permits a very one-sided picture of this situation to be developed before the committee. We feel that in developing—

Mr. POWELL. If you object to this resolution being in the record because it has nothing to do with hiring, then I would be disposed to ask the committee to strike it off the record because I am not going to allow any testimony to be developed of anything other than discrimination in hiring.

Mr. ROBINSON. May I ask this: Is the committee investigating also not only the question of discrimination in hiring, but also the question of discrimination by union organizations in the manner in which they treat their members, and that brings about a condition of discrimination on the job?

Mr. POWELL. Yes, discrimination by unions, that is true.

Mr. ROBINSON. That is what we would like to develop and, I think, we can develop here in answer to the question you have asked as to the discrimination in hiring, and also develop that there has been discrimination by the union organization.

Before I proceed any further I would like to have Mr. Allen, who is an old-time employee of the Tennessee Coal, Iron & Railroad Co., a subsidiary of the United States Steel Corp., who is now an international representative of the Mine, Mill and Smelter Workers Union, but who has been in the Birmingham red ore mining area for a period of 58 years—

Mr. ALLEN. Sixty-two years.

Mr. ROBINSON. I will let him tell it, because he never tells me his age, for some reason.

I would like to introduce Mr. Allen who has had so much experience, and after that I would like to be permitted to develop the thing just a little further.

Mr. POWELL. Mr. Allen.

Mr. ALLEN. Mr. Chairman, I wish to thank you for this opportunity of coming back here today. I sat very attentively and listened to Mr. Townsend, who stated he was in the area 5 days making investigations. I am happy to tell this committee I have been in that area 62 years. Thirty years of that I spent as an iron-ore miner. I know the condition that exists in those mines, and I know how the men are being discriminated against.

You take the centering plant alone—that was also mentioned here—there are between 370 people, and 400, employed there, and not a single Negro. Evidently he did not see that. And that is a matter of record.

During the election that was held there—you asked for the specific percentage—they won by 460 votes, due to the fact that for better than a year no Negroes were hired.

And what is the contention of the company today? The Tennessee Coal, Iron & Railroad Co., immediately after the election was won, began crying, and are crying now that they have too many men on their pay roll, and they must reduce their forces. These things are facts. I live there now.

There has been a time on that mountain where Negroes outnumbered whites 10 to 1. By being born and reared there I know the conditions, and I know that to be a fact. I was a miner at the time, and you could not find over two white men in the mines, and that was the mine foreman or a pipeman, but today they are outnumbered, and they do not hire Negroes at all.

It was further stated by the general superintendent that he expected this election to be won by the centering plant because all of the employees at that plant were white. The actual issue entered into—not by any representative of our international, but by the oppositionists—the actual issue entered into in this campaign was by calling the white workers to get into a white man's union. But they would come to the Negro workers and try to influence them after they had gotten all of the white men to sign up with them, because they knew their bargaining power would be less effective, and there were 2,233 votes cast, with a fraction over 5,000 eligible to vote.

Mr. Townsend has heard this before, and he knows it. I do not know why he would not bring it out here, but the things I am telling you are things that I know, and I am not guessing about it. I have had 62 years experience in the conditions that exist in the State of Alabama in the iron ore field.

Certainly we are here in support of FEPC. We need it in Alabama, and we need it in all of the Southern States. It would go further to eliminate some of the conditions down there than anything I know of, and I am hoping, and I trust that you will use the virtue of your good office to help get that bill passed.

Mr. ROBINSON. At this time, if I may, I would like to say the International Union of Mine, Mill and Smelter Workers is wholeheartedly in accord with the FEPC bill now under discussion before this committee. We certainly are not in disagreement with the statement submitted here by the national CIO or the resolution attached to it, as it pertains to the support of the fair employment practices bill. Our organization is one of those which believes that it takes more than resolutions to make a law effective or to bring about a law which will benefit minority groups.

I would like to say for myself that the highest compliment ever paid me was paid by Judge Hastie, who is now Governor General of the Virgin Islands, as I understand it.

During the war President Roosevelt, through Secretary of War Patterson, called upon the president of the international union to investigate and attempt to work out a situation in the copper mines of Montana wherein the workers were refusing to work with Negro workers, and a strike ensued there.

I was attending the Boston convention at the time, and received a telephone call from Mr. Patterson.

Upon receiving the telephone call from Mr. Patterson—and on the same extension phone was Judge Hastie—I discussed the situation with them, and his request was that I proceed immediately from the CIO convention to Montana because it was vital that we have continued operations there for the war effort.

On the phone with me at the time was the secretary of our organization—and, incidentally, it happened to be before our election time, and the secretary was without opposition, while I had an opponent—and I said to the Secretary of War, "I shall immediately take the plane"—that the Government had provided for me—"and will proceed to Butte to see what I can do about it."

The secretary of the organization said, "You must not do that. I have no opponent in the election this year, and you have."

My answer to him was, "I am sorry, but we are in a situation that requires my presence, and I care not what the results of the election are as a result of taking a principal position."

In a meeting where Judge Hastie addressed the national CIO he said that many people give lip service to the question of opposing actual discrimination, but he said that he had found one man who would fight against racial discrimination even at the risk of his career, and that he was proud to find a person like that.

I only say this to show that at least there has been something in the record that would indicate that we feel very strongly about this, and that it shall be by deeds and not words, and that we support the statement of the CIO, not just by mere lip service, but by following through with action. And it is because we have given that kind of action to the national CIO, and the policies of our own organization, that we find ourselves now in this situation that has been described here in Bessemer, Ala., and the best evidence to show that we did not enter or engage in any racial discrimination was the fact that the Negroes are solidly behind this organization.

The best evidence, I think, to prove that is perhaps the publication of the United States Steel Workers of America which they put out during the campaign—and I will submit it to the committee, because I think it is very illuminating, but just before I pass it out to you I would like to point out that here they have 31 elected officers of the Iron Ore Miners Steel Workers Organization down there, and 31 separate officers, and out of that 31, only 1 is a Negro; all the rest are whites.

And on the interior of this they have pictures of their meetings down there, and out of all of the pictures, the total number you can find, out of some two-thousand-three-hundred-odd Negroes, the most that you can find are five Negroes.

Mr. POWELL. A hundred-odd people, you mean?

Mr. ROBINSON. No; two-thousand-three-hundred-odd Negroes out of a total of some 4,800 or 5,000 employees, you will only find 5 Negroes. The rest are all whites.

This is their publication. It is not put out by us, and I will submit it to the committee for your information.

The charge that was made against our organization in the resolution presented was that we had created racial discrimination, and that our organization was responsible for creating the kind of conditions that exist there as the present time.

The facts are—and this deals with the question of discrimination in hiring—that this organization started organizing in that area in 1933, long before there was a CIO organization, and long before there was a steelworkers organizing committee. We did organize, and did bring about conditions for the iron ore miners there, as the result of a terrific struggle against the Tennessee Coal, Iron & Railroad Co., in which not less than three Negro workers were brutally slain on the picket lines fighting to keep their organization. Our union stayed in the fight and fought it through, and did everything to support the workers, and we found during the fight the mainstay of the organization, the people who gave up their lives, were three Negroes, the people who had supported the organization, and, in the main, the people who had supported the organization were Negroes.

There were some of the whites who, under the leadership actually of the Negroes maintained and stayed through the organization through long periods of struggle, and through periods when we went to the United States Supreme Court with a case involving discrimination against workers, and wherein the company was required to reinstate 155 people, and were required to pay them some \$300,000 in back wages. Most of the 155 people who were discriminated against were Negroes, and as a result of the general program of our union in which we were able to establish something that since has become quite famous, a portal-to-portal case, wherein the workers got paid for all time spent underground, and the company immediately upon having to pay out almost a half million dollars in back wages, started a campaign of not hiring Negroes because they knew that the Negroes were people who supported this union that had brought about all those benefits to the workers, regardless of race. They started this program because they felt without a majority of Negroes they would have a better opportunity to eliminate this union that was able to bring that kind of results to the workers.

It has been a very conscientious policy of the company not to hire the Negroes. The most outstanding example is within the sintering plant. It is a bottleneck plant wherein all the ore going forth from the iron-ore mines must pass through the sintering plant for processing before it finally goes into the steel mills for final fabrication, and therefore, because they knew that our union organization, if it had the opportunity to have equal treatment, the way this union operates in the plants, in the sintering plants, they would be as effective there as they were in the other sections of the mine and, therefore, they hired only whites, and not a Negro was employed there.

The same policy applied up and down the mountain in the iron-ore mines.

As the result of this, for the past 18 months, and since the war ended, there has been a determined effort upon the part of the United Steel-

workers of America to take over the membership of our organization in the iron-ore mines. It is a serious charge to say that there was collusion between the company and the United Steelworkers of America. We have every reason to believe that there was, if not outright collusion, very close cooperation during this period of time.

We entered into an agreement after a long period of friction between the United Steelworkers of America and our union wherein the United Steelworkers went into our local unions and talked with certain people, and some of them officers of our organization. During the period when we were having so much difficulty in organizing, the company had developed a company union which has become now famous, and which is known as a "popsicle" union, because when it was organized the popsicle union distributed popsicles at the union meeting so they could be entertained with popsicles. And the people who admitted they were paid by the United States Steel Corp. to break up our union were the leaders of this "popsicle" union. After we were able to establish our organization we did not want to bar these members from membership, or discriminate against them in employment, and because of the policy of the company in not hiring colored workers and hiring white workers, these people—some of them the most damaging company unionists—were able to get in a position of leadership in those local unions.

The charge has been made that we did not process grievances of the Negroes, and we were discriminatory in our treatment of the Negroes, and the reason we were discriminatory was that some of the "popsicles" would refuse to take up the grievances of the Negroes. Those people are today the people who are in leadership of the steelworkers' local unions, and I can tell you quite frankly that the Negroes are not going to take a chance on letting those people again carry out—regardless of the union they are in, and regardless of the kind of label there is on the union—they are not going to take a chance on having the discrimination they found in the old union, and under the "popsicle" union, even though they had membership in the United Steelworkers of America.

As to collusion, we would like to say this: our contract is coming to an end this year, and we want to be in a position to bargain for a new contract. The raid was going on there, and they were going there and telling the people to vote for the steelworkers union and they would have a white union. They intimidated the white workers by telling them, "If you vote for the Mine, Mill, and Smelter Workers, they will charge you"—and I hate like anything to use this expression, but it is necessary to bring out all the information—"you will be charged as being a Negro lover."

And we all know that is one of the worst things that a white man in the South feels he can be called. And this was the kind of campaign carried on all the way through.

They said, "We will give you a white union, and you will not have Negroes in your union like you had them in the Mine, Mill, and Smelter Workers."

This campaign went on for a long period of time, and then we agreed finally to an election, an election which had to be conducted by the American Arbitration Association because neither organization, the United Steelworkers of America, the National CIO, nor the Mine, Mill, and Smelter Workers, had availed themselves of the election

procedure under the Taft-Hartley Act, so the election was agreed upon because our union did not want to deny the workers the opportunity to bargain for a new contract after ours expired.

We entered into this election with the National CIO. This was an agreement signed by representative, R. E. Pherr, who, incidentally, happens to be a member of the United Steelworkers, but he signed as a representative of the CIO industrial union, and it was agreed the Mine, Mill, and Smelter Workers would be on the ballot, and the industrial unions would be on the ballot, and there is nothing said about the United Steelworkers of America. They were not a party to the agreement, and there was no arrangement with the United Steelworkers of America, yet during the course of the campaign the representatives, who were organizing with representatives of the United Steelworkers, representatives of the National CIO and the State CIO, told the workers there that to vote for the industrial unions as provided for in the agreement was a vote for the United Steelworkers of America.

We challenged this based upon the agreement that we had, and as a result of that challenge, and because it was having its effect upon the white workers, they thought they were going to be voting for the steelworkers, but were convinced by the written language of the agreement they were voting for the industrial unions.

David J. McDonald, the secretary of the United Steelworkers of America, sent a wire to the representative of the steelworkers in that area, and said the following—and this is a true copy of a handbill containing a photostatic copy of a telegram sent by Mr. McDonald:

Please inform the CIO ironworkers they will be chartered by the United Steelworkers of America, CIO, after the election of November 1. Inform them that the CIO has agreed to recognize the United Steelworkers of America, CIO, as their bargaining agent after the election is won on behalf of the CIO industrial union.

Here is the agreement between the union and the CIO calling for industrial unions, and they are an integral part of the CIO. They have their entity there. And later on a disposition could be made by the National CO—they had already made the disposition which bears out further the kind of a campaign they conducted—but this was an agreement.

Once we heard of this handbill we proceeded to the officer of the company and said, "Here is the wire that has been submitted, and we are asking you as a party to this agreement, is there another agreement with the United Steelworkers of America?"

He said, "We will not enter into this campaign. We will not take sides in this campaign."

He also said, "We are not saying that there is and we are not saying that there is not."

We asked him if he would make a statement saying there was not an agreement, and he refused on the basis he would not take sides. The very fact he permitted this kind of misinformation to be given to his employees, in whom he had an interest, was not a question of taking sides. His refusal to make the statement was taking the side on the part of the United Steelworkers of America, and indicated, as has been further proven by the fact that the National CIO, in extending the contract that we had previously negotiated, extended it in the name of the National CIO Industrial Unions, or their successors, and immediately within 2 weeks.

Mr. BURKE. I believe that the type of testimony now being offered is irrelevant to the matter before the committee, the matter for which the committee was organized, that is, FEPC.

At the beginning of this we agreed that this would not be a sounding board for any organizational board, or squabble, only insofar as it applies to FEPC.

Mr. POWELL. I think much of the material you are introducing is not germane to our investigation; however, some of it is. I thought we could conclude this by this time—the Under Secretary of the Treasury, Mr. Foley, is here, and he has an appointment at 2:30.

I am very willing to go into this in more detail on Wednesday afternoon of next week when both sides could have an opportunity to have the whole afternoon to themselves. However, I must say whatever is introduced has to be germane to FEPC.

I, for one, can say my mind is open on the situation, and I would like to hear what the general counsel has to say, and give him full opportunity. It seems to me it would take a whole afternoon just for this, and if you are willing to have it set aside until next Wednesday at 2 o'clock, and if the general counsel is willing, then we can go into this further. At any rate, we will have to conclude it now.

Mr. ROBINSON. May I just say one thing?

Mr. POWELL. Yes, for now. Whatever testimony is taken now we will begin from this point when we meet again on this particular matter.

Mr. ROBINSON. I appreciate the opportunity you have given me to develop this as much as we have. I think you have to develop the whole thing in order to show how it is germane as to the two questions you originally outlined. I would like to suggest that, however, because it is difficult from this distance to get all of the facts, and I would like to point out here that the best place to find out whether there was any discrimination in hiring would be to take the records of the company over a period of years to see what the discrimination in hiring of whites and Negroes was. I would suggest—although we would be happy to introduce other germane information that your committee hold hearings in the Birmingham area, where you will not get any hearsay, but you will have the company records, and the whole picture will develop this matter in the manner in which we have described.

Mr. POWELL. I will state it was the purpose of the committee to conclude the hearings next week. We have a very important announcement to make. The President yesterday evening appointed a colleague, Congressman Augustine Kelley, to go to Geneva to attend the ILO meeting. Mr. Kelley is leaving the Committee on Education and Labor at that time—he will leave right after next week, and not return until July 6—and it means the Committee on Education and Labor will probably not be able to bring out any legislation including the Taft-Hartley, the minimum wage, FEPC, until after July 6.

It is unfortunate but, on the other hand, we might compliment our colleague. It so happens Mr. Kelley was the chairman and the vote in our committee, as Mr. Burke knows, was 13 to 12 on liberal measures, and it is not my purpose to recognize any committee action until the return of our colleague, Mr. Kelley, so we have plenty of time to take up this matter.

And if conditions indicated the necessity, I would be very happy to personally go to Alabama or anywhere else to see just what the truth is, and see what the situation is.

Would you like to say a word before we adjourn this part of our hearing?

Mr. HARRIS. I would like to say, sir, what Mr. Robinson has seen fit to bring up here as to this international union fight, was the subject of an all-day session of the CIO executive board on Tuesday. The speech which Mr. Robinson has been making here he made at far greater length there. In addition witnesses were heard at Birmingham, three from each side, and at the conclusion of this meeting the CIO executive board determined by a vote of 37 to 11 that Mr. Robinson's speech was untrue, and that everything he said was a lie. He is now seeking to get the determination reviewed by the subcommittee. We do not think his story has anything to do with FEPC. We believe the proper action for your subcommittee would be to strike from the record the testimony of those last two witnesses.

However, if you are disposed to go into it, we request full time to tell the true story as distinguished from Mr. Robinson's story, and what he has been saying.

Mr. POWELL. Furthermore, is it within the province of the CIO to allow the committee to look at the minutes of the meeting as held? If so, it would save a lot of time.

Mr. HARRIS. I think not. It was a closed meeting.

Mr. POWELL. That is all. Thank you.

Mr. HARRIS. It is my expectation that Mr. Robinson will be strongly criticized for coming here and saying what he has.

Mr. POWELL. Insofar as anything which would show discrimination, Mr. Robinson is entirely within his rights as an American citizen, to bring this matter before the committee, or any committee of Congress, in open session, so I think you are wrong on that point.

Mr. HARRIS. I am unable to see where most of his statements have any relation to the subject.

Mr. POWELL. I agree some of the matters were not germane.

Suppose we adjourn the matter as of now, and then we will meet again to devote a full afternoon to it, but the matter must be germane, and if it is not germane we will have to rule it out of order.

Mr. ROBINSON. May I ask one question?

Mr. POWELL. Not now.

Mr. ROBINSON. I beg of you. I have been called a liar before a committee—

Mr. POWELL. You can answer it Wednesday.

Mr. ROBINSON. I am somewhat like the good Members of Congress. I have some idea of how the press takes up things, and the press has just picked up the statements in which Mr. Harris said I am a liar.

Mr. POWELL. Do you want to categorically say you are not?

Mr. ROBINSON. I would like to say this: There was no hiring held by the CIO that would permit the proper exposé of this situation. The resolution you have here was written prior to the time there was a discussion by the executive board of the CIO, and it was written only upon the examination by Mr. Townsend of 5 days, and the findings were made without one single consultation with the Mine, Mill, and Smelter Workers Union and, therefore, it was not a fair thing to do. I was there. Mr. Harris is the liar.

Mr. POWELL. Congressman Burke has a statement to make as a member of the committee, and then we will have our Under Secretary of the Treasury come forward after that.

Mr. BURKE. I want to state this in support of what the chairman has said, that the matters I believe this committee should consider are only those matters which will assist this committee on whether or not to report the bill out, how it should be amended, and how the committee should draw the report, and the attempt to use the committee as a sounding board for the purposes of propaganda or for the purposes that are foreign to the committee's purposes should not be allowed and, therefore, I not only resent them, but I feel I must refrain from considering them, and object to them.

Mr. POWELL. I want to ask the reporter to hold the testimony as of now in abeyance until we meet next week.

I will ask the Under Secretary to kindly come forward, and also Mr. Hall and Mr. James H. Hard, who is with him.

Mr. FOLEY. Will you introduce, for the benefit of the reporter, and others, the two representatives of our Government whom you have with you?

TESTIMONY OF EDWARD H. FOLEY, JR., UNDER SECRETARY OF THE TREASURY, ACCOMPANIED BY ALVIN W. HALL, DIRECTOR, BUREAU OF ENGRAVING AND PRINTING, AND JAMES H. HARD, II, DIRECTOR OF PERSONNEL, TREASURY DEPARTMENT

Mr. FOLEY. Mr. Chairman, not knowing just what matters the committee wanted to go into this afternoon I brought with me Alvin W. Hall, on my left, the Director of the Bureau of Engraving and Printing, and Mr. Hurd, on my right, who is the fair employment practice officer for the Treasury Department.

We are here at the committee's invitation, and we are prepared to answer any questions within our respective jurisdictions.

Mr. POWELL. Day before yesterday the Reverend Mr. Jernagin, who was the founder of the National Fraternal Council of Negro Churches, and at one time was the president of that council, with over 6,000,000 members, in the course of his testimony, in support of this bill, which is the administration bill which came to the chairman from the President through the Attorney General, stated in one paragraph the need for this bill, which covers employers, unions, and government, by citing discrimination in the Bureau of Engraving and Printing. That was the only agency which he singled out. I had no advance copy of his testimony, and we knew nothing about it until he made the statement. I went over it during the course of questioning, and asked him about it. I told him that if he would submit any specific cases to the committee that we would ask the Bureau of Engraving and Printing, through the Secretary of the Treasury, to kindly come before us and to reply, which is the way he have been conducting our hearings.

I also received a request from the union group which represents many of the workers in the Bureau of Engraving and Printing to submit a statement in which they have specific cases. Many of the people in the audience today are people who work in the Bureau of Engraving and Printing, and they have come because of this hearing.

The committee knows nothing more than the statement which was made to us by Rev. Jernagin, whose word I personally respect. I have known him since I was a little fellow. He is one of the older men of my particular church, the Baptist Church, and I have reason to believe he would not make a statement without knowing what he was talking about.

So I have before me four individual cases, and then the over-all case of the printers' union in the Bureau, and I also have asked representatives of the group which represents the workers to be present with their cases.

The testimony of Dr. Jernagin in other cases presented indicates that Negroes first are not upgraded despite their years of working in the Bureau, and despite their experience. It also indicates that in the hiring they are hired for certain particular jobs in the Bureau, and are not given an opportunity to work in the higher brackets.

Is that true or not?

Mr. FOLEY. Mr. Chairman, I have not had an opportunity to read the statement that you refer to. Directing myself specifically to your question, I would say that the statement is not true. I would ask, if it is agreeable with you, that the Director of the Bureau elucidate, and give you reasons why we do not think the statement is correct.

Mr. POWELL. Mr. Hall.

Mr. HALL. First of all, Mr. Chairman, our appointments are made through the civil service from registers established by the Commission—

Mr. POWELL. Respecting men and women?

Mr. HALL. That is respecting women. They come into the Bureau as printers' assistants, and they are assigned to what we call the tissue room. We take them from the register as they come, regardless of race, of course. And as regards the trade or the appointment to the trade, it also is made through the Commission where there are registers established, and a great many of them come from other departments.

For example, when we need a machinist we usually go to the navy yard, and the same is true when we need an electrician. So the appointment is not made on the basis of race.

Mr. FOLEY. I might say, the Bureau of Engraving and Printing is a large organization. We have employed there some 6,000 people, and I believe about 51.5 percent of the people employed in the Bureau of Engraving are Negroes.

Mr. NIXON. What percent?

Mr. FOLEY. About 51 percent of the total employed in the Bureau.

Mr. POWELL. Of that 51 percent what percent works in the lower classifications?

Mr. HALL. I say the bulk of them are in the lower classifications because all of our women are on the lower grades.

Mr. POWELL. That is one of the charges made.

Mr. HALL. The white women are in the lower grades, as well.

Mr. POWELL. How about the men?

Mr. HALL. As I pointed out, our machinists, for example, are taken from the navy yard, and we have no record of a Negro being certified by the Commission in that trade.

Mr. POWELL. Let us take the example of Mr. X: He went to work at the Bureau in 1936 as a messenger. He was appointed from the

elevator operator examination. In 1940 he was promoted to skilled helper. In December 1942 he volunteered and entered the Navy, serving with distinction in the Pacific until 1945. Today—3½ years later—he is still a skilled helper in the bindery section, although he has had years of training outside the Bureau in linotype, composing room work, and printing press operation. He is one of the veterans who applied for the scheduled apprentice plate printers examination, only to learn that the examination would not be given.

Mr. HALL. First, we do not employ linotype operators in the Bureau. Also, there were more white men who applied for the jobs than Negroes. We are installing modern equipment, and we did not want to bring young men into a trade and at the end of 4 years say we had no work for them. After the thing is ironed out we will know what the apprenticeship requirements will be.

Mr. POWELL. Let us take case No. 2, and we will call this Mr. Y:

He has been working at the Bureau since 1918. He is also a CM-2 helper. For the last 13 years he has been in the Bindery Section of the Surface Division, where he developed new procedures for increasing efficiency and production.

You no doubt know his name now; it is Mr. Grahame Burrell.

He did not receive any promotion for this. Three months ago, after he asked for a reclassification of his job in recognition of his special skill, he was told that he was doing woman's work and his responsibility was taken away after he had been doing that work for 13 years.

Mr. HALL. On that I cannot give you the information just offhand. I would be glad to furnish a statement on the case.

Mr. POWELL. You are the Fair Employment Officer?

Mr. FOLEY. Mr. Hard is with the Treasury Department.

Mr. POWELL. Who are the men with the little FEPC Commission, as we call it?

Mr. HARD. We have regional deputy fair employment officers in each region. I am in charge of all Treasury activity.

Mr. POWELL. Who would the worker bring the complaint to?

Mr. HARD. He would bring the complaint to the supervisor or first to the second line supervisor, and then to the head of the Bureau, and then if he were not satisfied at that level it would come to me then.

Mr. POWELL. How many cases do you have before you now?

Mr. HARD. I have no formal cases.

Mr. POWELL. Mr. Nixon?

Mr. NIXON. I am not entirely familiar with the procedure. Do I understand the witness who has just talked handles the complaints in case there are difficulties?

Mr. POWELL. Yes; that is right. Under the President's Order 9080 there is a little FEPC set up in the Government, which says, "There shall be established in the Civil Service Commission a Fair Employment Board." That is at the top, and it says, "The head of each department shall designate an official thereof as a fair employment officer."

Mr. FOLEY. Mr. Hard is designated by the Secretary of the Treasury to hear complaints for the Department. There is only one fair employment officer for the Department, designated by the Secretary

of the Treasury to have general supervision of the administration of the President's order.

Mr. NIXON. Do I understand, then, that those are your only duties?

Mr. HARD. No, sir. I am director of personnel of the Treasury Department.

Mr. NIXON. Do you have other people from the Treasury Department who work with you in handling the complaints on fair employment practices? In other words, have you set up a board or a committee or a commission within the Department itself?

Mr. HARD. In the field, but not in Washington. Our effort in following the directives of the Fair Employment Board of the Commission is to settle all grievances possible where the complaint is registered, and if adjustment is not had then the appeal goes to the fair-employment officer for a settlement.

Mr. POWELL. Under this Executive order, Mr. Nixon, of the President, section 3, subsection (c) states:

It is the responsibility of the fair-employment officer to appoint such control or regional deputies, committees or hearing boards from among the officers or employees of the Department as he may find necessary or desirable on a temporary or permanent basis to investigate and receive complaints.

They have a right to do it, but it has not been set up, or one has not been set up for Washington, D. C.

Mr. HARD. No.

Mr. NIXON. How many employees do you have, roughly, in Washington, D. C.?

Mr. HARD. Roughly 20,000.

Mr. POWELL. And there are about a half million in the whole United States. It seems to me in such a situation as that, you would save your time, since it is a collateral responsibility, by having a committee set up in the Bureau.

Mr. HARD. We have machinery provided to settle the complaints in the Bureau, and we get those cases which are unsettled.

Mr. NIXON. What is that machinery?

Mr. HARD. Briefly, that if an employee has a complaint, he can file it verbally or in writing with his immediate supervisor or the supervisor next in line, and failing to get satisfaction there, he can go to the head of the Bureau or office, in writing. If it is not adjusted there, it comes to the fair employment officer for investigation and adjustment.

Mr. NIXON. And that procedure is widely publicized in the department?

Mr. HARD. Yes, sir.

Mr. NIXON. How many cases have come to you since the present order has been set up?

Mr. HARD. I have had three or four informal cases, and I would like to amend my statement of a minute ago. I have had a number of petitions from employees of the Bureau of Engraving and Printing concerning this printers' assistants examination, but that does not come within the fair employment order. There is no discrimination in that. It is applied both to whites and colored. If there is any complaint on that it lies before the Civil Service Commission.

Mr. NIXON. At that point may I ask one more question? You say this order in regard to the printers' assistants applied to both white and colored?

Mr. HARD. Yes.

Mr. NIXON. As a practical matter, such an order would discriminate, it would seem, against the group which was not represented in that employment category in the Department at the present time. In other words, it is applied to both because you said there were no jobs available.

Mr. HARD. This applies to war service printers' assistants under the war-service regulations. Appointments were made without regard to civil service status. At the termination of the war, the Civil Service Commission reestablished its examining procedure by which all appointees had to compete for their positions, and had to get on the register. The war-service employees of the Bureau of Engraving and Printing protested the examination due to their service, and they think they should be given permanent status under Executive order instead of having to qualify through an examination.

Mr. NIXON. Were a great majority of those employees who had the war-service status, Negroes?

Mr. HARD. I have no way of knowing.

Mr. HALL. Yes, the majority were Negroes.

Mr. NIXON. I am trying to point out why the group felt there was discrimination. It must have been that, as I understand it.

Mr. HARD. One of the reasons given is the examination given plate printers, who print the currency.

Mr. BURKE. I would like to ask a question about the procedure that was set up within the Bureau, or within the Department here in Washington. You say that the employees are required to take up their grievances, according to the Executive order, with their supervisors, or the next supervisor in line?

Mr. HARD. Yes, sir.

Mr. BURKE. I do not want to offer any opinion on this, but it seems to me that would be a basic weakness.

Mr. POWELL. Yes.

Mr. BURKE. As I understand, the Government regulations and set-up is that the supervisor has control over the employee's efficiency ratings under the classification system, is that right?

Mr. HARD. The supervisor rates, but the rating is reviewed by the office. The employee has the right of appeal to an impartial board, a bipartisan board, if he is not satisfied with his rating.

Mr. BURKE. That is probably true, but what I was getting at is this: He is starting a little bit behind because the supervisor gives him a poor efficiency rating. If the supervisor has some prejudice, racial prejudice or any other kind of prejudice, and the individual has a grievance about discrimination, he would naturally have the grievance on the discrimination against this supervisor, or the next supervisor in line, so he has to take up his grievance with the man whom he has the grievance against.

Mr. HARD. As to efficiency ratings, they do not come under this fair employment procedure; they are separate.

Mr. BURKE. I realize that. What I had in the back of my mind is that it is possible, as a matter of reprisal for faking up this grievance on discrimination, that he might get a poor efficiency rating.

Mr. HARD. On this question of the channeling of complaints, there is a difference of opinion as to which is the best way to proceed. If an appeal is filed at a higher level, you must go back to the lower level to

get the facts in the case. Our feeling is that this whole problem can be most successfully handled if complaints are settled before they become big problems.

Mr. BURKE. I agree with you there.

Mr. HARD. Therefore, if you can settle them at the lower level, they will learn the lesson there.

Mr. BURKE. Wouldn't it be better if the procedure was followed which is outlined in the Executive order, where a board will be set up for the handling of this particular type of grievance, rather than taking the grievance direct to the supervisor?

Mr. HARD. That Executive order set up the Fair Employment Board of the Civil Service Commission with the authority to prescribe regulations for the conduct of the programs of the agency, and our regulations are in agreement with the Fair Employment Board.

Mr. POWELL. What my colleague is trying to point out is that the head of the department, in addition to what you said, also has the power to designate the official of the Fair Employment Board. It is a question of delegating this power to someone who would not be the one against whom some grievances may take place.

Mr. HARD. The Fair Employment Office of the Treasury Department has no operating responsibilities.

Mr. POWELL. You have no Director of Personnel?

Mr. HARD. I am the Director of Personnel.

Mr. POWELL. What do you do, as the Director of Personnel? Don't you choose the people who would come in?

Mr. HARD. On the departmental level we establish policy regulations and inspect the performance. We don't employ. My office does not employ anyone.

Mr. POWELL. My experience may be different than the experience of your agency. My experience is that the person who is in charge of personnel chooses the people who come in. You have nothing to do with recommendations with regard to upgrading and that sort of thing?

Mr. FOLEY. I think it is a little different in the Treasury Department. It is done on a bureau basis. The bureaus are relatively autonomous, subject to the control and supervision of the Director of Personnel.

Mr. POWELL. Does he have anything to do at all with setting standards?

Mr. FOLEY. On the policy level, but not so far as the actual operational procedure is concerned.

Mr. POWELL. Who would be the person in the Bureau of Engraving responsible for upgrading?

Mr. HALL. We have a personnel office.

Mr. POWELL. You are the Director of Personnel of the Bureau of Engraving?

Mr. FOLEY. No for the whole Treasury Department. We have the Bureau of Internal Revenue, the Mint, the Bureau of Engraving and Printing, and various offices of the Treasury Department, all of which have their own directors of personnel, subject to the Secretary's general policy supervision.

Mr. BURKE. As I understand it, the Director of Personnel of the Bureau has nothing to do with the operations as such, except in carry-

ing out the personnel policies that are established at the departmental level, is that right?

Mr. FOLEY. I think that is right.

Mr. BURKE. Would not it be far better if the personnel officer would be the one to whom the employee could go?

Mr. FOLEY. I assume, Congressman Burke, that a person who has a grievance certainly could go to the personnel officer. I am sure he could go to the Director of the Bureau, whose office is always open. There isn't any reason at all why people cannot come up and talk to the Secretary. I know they do.

Mr. BURKE. In private industry we had quite a fight on through the years, whether, in the first steps in the grievance procedure, when the employee takes the matter up with his foreman, it should be required or not that the shop steward be present. There was quite a fight to get it. We determined that it was impossible for the employee to get effective action on the grievance when he had to take it up himself with the man against whom he had the grievance. That may have been the general condition. Of course the foreman, as such, would have nothing to do with it, except in carrying it out. He might also have a grievance on something that the foreman told him to do, or about his personal relations with the foreman. Therefore we found it was far better, and certainly more effective, and would give the employee a better shake, if the requirement was that the shop steward take up the grievance with him in the presence of the employee. That is why I say the employees sometimes are afraid of reprisals if they have to take up the grievance with the individual against whom they might have the grievance.

Mr. FOLEY. I think that is something that we can give some thought to. I know we had some trouble, insofar as labor problems in the Bureau were concerned, and we set up a labor relations adviser or counsel in the Bureau to whom the labor representatives could go with their grievances. He has no other responsibility other than to be available at all times to listen to grievances, and to counsel and settle the disputes that come up from time to time.

Mr. BURKE. I would like to ask another question. You say there are 6,000 people employed in this particular Bureau, the Bureau of Engraving and Printing. What percentage of those are in apprenticeable trades, skilled trades?

Mr. HALL. We have very few apprentices in that Bureau at the present time.

Mr. BURKE. I say in apprenticeable trades, skilled trades requiring apprenticeships?

Mr. HALL. About 1,000.

Mr. BURKE. About one-sixth.

Mr. POWELL. How many did you say?

Mr. HALL. About 1,000 are in apprenticeable trades.

Mr. POWELL. One thousand Negroes?

Mr. FOLEY. No, 1,000 of the 6,000 people.

Mr. POWELL. Six thousand people, and 3,000 Negroes, and 1,000 in apprenticeable trades.

Mr. FOLEY. That is right; sir.

Mr. POWELL. How many of those are Negroes, of those 1,000?

Mr. HALL. I haven't got the figures. We haven't maintained any records on races. I know of one or two who are in the trades at the present time.

Mr. POWELL. One or two Negroes?

Mr. HALL. That is correct.

Mr. POWELL. Doesn't that seem to be rather obvious discrimination, that out of 50 percent of the workers of the Bureau only one or two out of 1,000 people have been advanced to the apprenticeable trades?

Mr. BURKE. I would like to ask some questions on that. In the first place, where do you get them?

Mr. HALL. They all come from civil service.

Mr. BURKE. Do you make any yourself?

Mr. HALL. We have made some plate printers in the past, and have been successful, but we have cut off apprenticeships in plate printing because of this improved machinery that we are putting in.

Mr. BURKE. You have an apprenticeship program?

Mr. HALL. Yes; and those apprentices were taken from the civil-service register also.

Mr. BURKE. That is where you draw all your labor, from the civil-service register?

Mr. HALL. That is correct.

Mr. BURKE. How many would be in, say, a semiskilled classification?

Mr. HALL. Well, that would include women as well as men. I suppose. You mean the CM workers?

Mr. BURKE. What are the CM workers?

Mr. HALL. Clerical and mechanical service.

Mr. HALL. About 4,000 are in the CM service, or that level of occupation.

Mr. BURKE. That would leave about 1,000 for common labor.

Mr. HALL. I am including the common laborers in there. Four thousand in the lower brackets.

Mr. BURKE. That leaves 1,000 out of the 6,000. You say there are 1,000 skilled and 4,000 semiskilled, and what are the additional employees?

Mr. HALL. The others are the clerical officers, administrative officers.

Mr. BURKE. When I said semiskilled, I meant in operations that require some skill as contrasted with common labor, such as sweepers or paper balers, or what not.

Mr. HALL. There must be several hundred of the common-labor type, and the rest require some skill.

Mr. BURKE. In other words, it may take a few months, or a year or so, to get them to build up to the skill required?

Mr. HALL. Not quite a year; a couple of months.

Mr. BURKE. That is the semiskilled person?

Mr. HALL. That is right.

Mr. BURKE. You say your apprenticeship programs are pretty much at a standstill right now?

Mr. HALL. Yes. There are a few going through the apprenticeship. We haven't taken any new ones on and we do not plan to take any for several years.

Mr. POWELL. You don't plan to take any new ones on?

Mr. HALL. No, sir.

Mr. POWELL. What is the reason for that?

Mr. HALL. The reason is that we are improving our equipment and getting greater productivity. We don't want to run ourselves into a program where we might have to lay the printers off.

Mr. POWELL. Mr. Foley, on the surface, doesn't it seem to you that in the Bureau you are following a pattern? That is one of the things that the New York State Commission Against Discrimination pointed out yesterday, that lots of times in industry they found a pattern. Don't you think where you find one-half of the personnel belongs to one race and virtually 99½ percent of that group are kept in only one classification, and only one-half of 1 percent move up into another classification, that that is a pattern? Does it look like setting a pattern to you?

Mr. FOLEY. I don't want to characterize it as a pattern. I would say, so far as the Secretary's office is concerned, we are very zealous of a fair administration of the President's Executive order. I think you will recall we fired our collector of internal revenue for the State of Alabama because he refused to carry out the very Executive order we are talking about.

Mr. POWELL. I know.

Mr. FOLEY. We have always been very zealous of the protection of the rights of the minorities. I have always leaned over backward, insofar as my relations with the Bureau were concerned, to see that the minority rights are respected and that the order is administered fairly.

These complaints we are talking about are of a general character. This civil-service examination that was not held was not entirely within our jurisdiction. That is a matter for the Civil Service Commission and not for us.

Mr. POWELL. Yes.

Mr. FOLEY. In our selection of people for positions and in our promotion of people we follow, as fairly as we can, I believe, the practice of picking the eligibles that are certified to us, without any regard at all to race, color, or creed.

Mr. POWELL. May I ask a question of Mr. Hall? How does a person become a supervisor? He does not have to take the civil-service examination, does he?

Mr. HALL. No. They have to display some ability along that line.

Mr. POWELL. Among the supervisors all in your group there are very few Negroes, one-half of 1 percent.

Mr. HALL. I have not made a check of that. I cannot give you the names of each one holding a supervisory position.

Mr. POWELL. How many supervisors are there in the Bureau?

Mr. HALL. I cannot tell you the exact number.

Mr. POWELL. As long as we cannot get the facts from you we are Don Quixotes fighting the windmill.

Mr. HALL. I can make a wild stab at it. We have the records in the Bureau.

Mr. POWELL. Can anyone get the facts for us?

Mr. HALL. It will take some time to get them up.

Mr. POWELL. Do you have 10 or 100?

Mr. HALL. We have several hundred.

Mr. POWELL. You have several hundred?

Mr. HALL. Yes.

Mr. POWELL. You see them as you go through the Bureau?

Mr. HALL. Yes.

Mr. POWELL. I heard it was one-half of 1 percent that are Negroes. You, for instance, gave me a statement that, out of 1,000 workers in

one category, one or two are Negroes. Now out of several hundred supervisors, how many Negroes would say there are—10 percent, or 25 percent, or 50 percent?

Mr. HALL. I cannot give you the figure in connection with the large bulk of supervisors in the trades. All of the recruiting is done in the civil service. Take, for example, the plate printers: I suppose every plate printer in the United States is employed today. We have taken every one off the register. There has not been a Negro certified to us.

Mr. POWELL. I am talking about the women who have advanced in your Bureau and become supervisors.

Mr. HALL. There are some, but offhand I cannot tell you how many.

Mr. POWELL. Can you tell the committee the facts on it?

Mr. HALL. Yes; I can get them for you.

Mr. POWELL. We were in a rush, but we are not in a rush on it now.

Mr. HALL. I will be very glad to furnish it for the record.

Mr. POWELL. We want the exact names of the Negroes, and the percentages, in the various positions that the people can go to, not by taking civil-service examinations.

Mr. HALL. Shall we give you the trade foremen?

Mr. POWELL. Any place they can advance without taking a civil-service examination.

Mr. HALL. The plate printing foremen are appointed without taking the civil-service examination for foremen.

Mr. POWELL. This is not, of course, strictly germane but to me it is part of a pattern. Why is it that in the cafeterias whites and Negroes are separated in eating?

Mr. HALL. They are not.

Mr. POWELL. They are not separated?

Mr. HALL. No.

Mr. POWELL. They mix with each other?

Mr. HALL. Yes.

Mr. POWELL. No outsiders are allowed to eat in the cafeteria?

Mr. HALL. We do not allow outsiders in the Bureau, unless they have business in the Bureau.

Mr. POWELL. You do not have any connection with the Government Printing Office?

Mr. HALL. No.

Mr. POWELL. Did you know about that, Mr. Nixon?

Mr. NIXON. No.

Mr. POWELL. This is very interesting, Mr. Nixon, that last item there.

Mr. NIXON. The problem of discrimination in employment, I think, is one which we all recognize is much more complicated than what appears at first blush, due to the fact that it is not what the supervisor, or the employer, many times may desire himself, but he is also confronted with the rules of union organizations and prejudices within those organizations which, in practice, would limit the amount of choice that he has when he begins to do the employing. One of the matters which has been brought to the attention of the committee was that of the employment of people who were members of the printers' union. First of all, so I can get the background myself, do I understand in the Bureau of Engraving and Printing you do employ people who are members of the printers' union?

Mr. HALL. We do not question anybody's affiliation with the unions when we employ them.

Mr. NIXON. As a practical matter, would you say those who belong to the printers' union get no precedence over those who do not belong to the printers' union, in jobs for which they would be normally qualified?

Mr. HALL. You are speaking of the plate printers?

Mr. NIXON. Yes.

Mr. HALL. I don't quite understand your question.

Mr. NIXON. What I mean is this: Do you have people employed in the Bureau of Engraving and Printing who are, from a craft standpoint, printers, or who would be under the jurisdiction of the printers' union in the event they did belong to the union?

Mr. HALL. Oh, yes, we have several unions representing the graphic arts.

Mr. BURKE. Will the gentleman yield?

Mr. NIXON. Yes, sir.

Mr. BURKE. There are a lot of printers' unions. There is the International Typographical Union. They have nothing whatsoever to do with them.

Mr. HALL. We have about six members of the typographical union.

Mr. BURKE. Then there is the engraving union, which is an entirely different craft. In other words, this type of material is printed by a different kind of press and a different kind of process than is the currency that we have.

Mr. FOLEY. That is right. I think we have some 25-odd unions in the Bureau.

Mr. NIXON. I assume that would be the case. The charges were made that since some of the printers' unions, in the general sense—that is including all the various groups that have been covered by Mr. Burke's statement and which are employed in the Bureau of Engraving and Printing—that since their membership is limited, on a discriminatory basis in some cases, to whites, that, in practical effect, means when you employ them in the Bureau of Engraving and Printing that some discrimination is carried over in your employment.

Mr. HALL. It would have to be carried over in the Civil Service Commission, not in our Bureau, because we take them off the civil-service register.

Mr. NIXON. Then what might happen—and this may be the difficulty that we are confronted with—is that, since some of the printers' unions do have discriminatory practices against Negroes in that they do not allow them to join the unions and do not allow them to go through the apprenticeship period which would give them the skills which would allow them to qualify for some civil-service jobs, some discrimination, which originally was the fault of the union, would be carried over into Bureau of Engraving and Printing.

Mr. HALL. I would not call it discrimination in the Bureau.

Mr. NIXON. I understand that. I am not attempting to indicate any fault on your part, or on the part of the Civil Service Commission, but I am attempting to get at the facts of discrimination as they exist.

Mr. HALL. Without admitting there is discrimination outside of the Bureau, in commercial industry, if there is, that is where the pattern is set, not in the Bureau.

Mr. NIXON. In other words, what you say is there is no discrimination in the Bureau, at least no conscious, deliberate discrimination.

Mr. HALL. That is correct.

Mr. NIXON. But there is a possibility that the patterns which are set outside in the unions, for example, might be carried over into the Bureau, as well as in other business concerns?

Mr. HALL. I am not admitting that the pattern is set outside. I don't know that it is, but if it is set outside, it is affecting the appointments in the civil service.

Mr. POWELL. I want to ask a question. Do you think Executive Order 9880 allows the Government departments, such as the Treasury, to have employment policies that are lily white?

Mr. HALL. Are you asking me that question?

Mr. POWELL. Yes.

Mr. HALL. No, sir; I don't think so.

Mr. POWELL. Do you have men in your set-up who are printers and some of them may make, with overtime, as high as \$10,000 or \$12,000?

Mr. FOLEY. Not that much.

Mr. POWELL. Some of them do?

Mr. FOLEY. I would say, so far as the plate printers are concerned, it is somewhere between \$6,000 to \$7,000.

Mr. POWELL. And then overtime on top of it. That is good enough. In fact, that is very good.

Mr. FOLEY. Yes.

Mr. POWELL. If they belong to unions that say no Negroes, or no people with green hair, whatever you want to say, can belong, then despite Executive Order 9880 you have to accept that situation?

Mr. HALL. We cannot go beyond the civil-service registers, Mr. Chairman.

Mr. POWELL. But you can go beyond the President's Executive order?

Mr. HALL. We cannot make any appointments without applying to the Civil Service Commission.

Mr. BURKE. Will the gentleman yield?

Mr. POWELL. I will yield, but I will come back to this.

Mr. BURKE. It is on this point. It is not the fact of membership in the union; it is the fact that maybe through the management policies in the field, in private industry, no qualified tradesmen have been developed.

Mr. HALL. That is correct.

Mr. BURKE. That the Civil Service Commission can make available the examination for, and therefore cannot certify to the Bureau. Is that correct?

Mr. HALL. That is correct. That is where the pattern is set.

Mr. BURKE. In the first place, you require, if I got your answer to my first line of questions, you require mostly skilled tradesmen right at the outset, at the time of hiring.

Mr. HALL. Yes.

Mr. BURKE. Because you have made very few tradesmen within your own organization.

Mr. HALL. That is correct.

Mr. BURKE. So whatever type of person is certified to you, that comes about by reason of the fact that they have been made a tradesman through an apprenticeship program, but if there is discrimina-

tion, the fault lies with the inability of minority groups to take advantage of an apprenticeship program in that particular trade.

Mr. HALL. That is correct.

Mr. POWELL. I would like to adjourn this subject, with the committee's permission, to a date that we can set now tentatively, when you can give us the facts on these promotions in your bureau which are not governed by civil-service registers but it is strictly up to you as the Director. When do you think you can get the facts before us?

Mr. HALL. By Tuesday.

Mr. POWELL. We will let you know by tomorrow when we might meet again.

Mr. HALL. Will you restate the question, Mr. Chairman?

Mr. POWELL. I will send it to you in writing.

Mr. FOLEY. I don't think that is necessary. I think I understand what you are after.

Mr. POWELL. What I want to know is why, out of 6,000 workers, over 3,000 Negroes, 1,000 of them have supervisory positions, we will say roughly, or hundreds have supervisory positions, and a minute portion of them are Negroes, despite the fact that I have before me a list of Negroes with good records and many years of seniority, who were passed by those who have not got the seniority but because they are of another race they are appointed supervisors. That is the basic charge.

Are there any other questions that you would like to ask, Mr. Nixon?

Mr. NIXON. No.

Mr. POWELL. Mr. Burke?

Mr. BURKE. No.

Mr. POWELL. Thank you ever so much.

Mr. FOLEY. Thank you, Mr. Chairman.

Mr. POWELL. As our last witness for today, we will have Mr. Thomas Richardson, representing the Government workers.

TESTIMONY OF THOMAS RICHARDSON, REPRESENTING UNITED PUBLIC WORKERS OF AMERICA, CIO, ACCOMPANIED BY MRS. MARGARET P. GILMORE, FREDERICK WIGGINS, AND MRS. ETHEL C. FERRITT, EMPLOYEES OF THE BUREAU OF ENGRAVING AND PRINTING

Mr. RICHARDSON. My name is Thomas Richardson. I represent the United Public Workers of America, CIO. I am here today to support, on behalf of my organization, H. R. 4453.

We are happy to see the agencies of the United States Government included under the provisions of this act. The existence of fair employment practice in the Federal Government strengthens the Government's hand in its efforts to secure compliance with nondiscriminatory policies in private industry. If there is any section of our national life in which the fundamental principles of equality of opportunity must be carried out, it is in the various Government agencies.

The existence of job discrimination against Negroes and other minorities in the Federal Government indicates a great need for strong and immediate remedial action. Shortly after VE-day, the United Public Workers revealed that ten Government agencies had a secret but firm policy against the hiring of additional Negro clerical and pro-

professional workers. During that same period, the Federal Trade Commission agreed to accept Negro accounting clerks from the liquidating OPA only after a long public campaign. The Bureau of Internal Revenue in the Bronx, N. Y., answered demands for fair employment practice by moving to Kansas City where it continued its discriminatory pattern. All these things were taking place during a period in which Negro Government employees were attempting to maintain the job gains they had won during the war as a result of manpower shortages and the existence of the wartime FEPC. The fact that the conditions described above as well as many other discriminatory situations were not corrected means that as of today, those job gains have been almost completely wiped out. And the familiar pattern which has been the curse of the Negro in American economic life throughout history has been applied again to rob him of means of livelihood and dignity—i. e., the last to be hired; the first to be fired—and the group in American life which receives the brunt of discriminatory treatment.

The United Public Workers appeared before President Truman's Committee on Civil Rights and discussed the intensification of anti-Negro discrimination in the Federal agencies. We were among the first to urge this committee to appeal to President Truman to issue an FEPC order for Federal agencies pending the enactment of a national FEPC legislation. We participated in the long, drawn-out campaign to secure the issuance of such an order.

In July 1948, President Truman issued Executive Order 9980 which had as its stated intent the elimination of discrimination because of race, color, or religion, from agencies of the Federal Government. It is now 10 months since the issuance of that order and discrimination is as widespread and as intense in Government employment as before the issuance of the order. The average Negro Federal employee feels that he has seen little or no change in the strongholds of racial discrimination among Federal agencies since the issuance of the fair employment practice order.

Mr. Chairman, as you well know, these feelings are based upon facts and I would like to take the opportunity to present to this committee some of the more outstanding instances of discrimination against Negroes in Federal employment as they exist, 10 months after the issuance of the President's order. I would like to say, however, that this situation was helped by the fact that the President's order had some major weaknesses which we are happy to see are not included in this bill. There has been a lot of talk about reliance upon volunteer compliance to secure fair employment practice in this country. I think that the failure of Executive Order 9980 which called upon agency heads to voluntarily carry out the intent of the FEP order is a demonstration that even in the Federal Government where the Chief Administrator makes known his policy against discrimination and requests cooperation of his aides that the volunteer method has not worked. It is, therefore, inconceivable that the volunteer method would work for private industry where there is no direct control by the Federal Government.

It is because of the lack of enforcement powers in the President's order that the following situations exist. Perhaps the most dramatic is the situation at Chamblee, Ga., in a Veterans' Administration hospital, where Negro veterans employed in that agency have been fighting discrimination in promotion and hiring. At one time, in their fight

against this discrimination, these veterans returned to their locker rooms to find the walls plastered with Ku Klux Klan stickers. I present one of these stickers to the committee for its information. The discrimination in hiring and promotion against these veterans continues and they have been given no guarantee from management that even on this Government reservation will they be protected from the Ku Klux Klan. This perhaps is one of the more dramatic instances, although I would like to say that it does not differ too much from the average treatment of the Negro Federal employee in Government agencies of the South.

I would like to deal most specifically at this time with a situation which has been in existence for years and which despite the issuance of the Presidential FEP order continues unabated. That is the one found at the Bureau of Engraving and Printing of the Treasury Department in Washington, D. C., a stone's throw from the White House and within a one-zone taxi limit of the United States Capitol. At the time the FEP order was issued, the United Public Workers communicated with Secretary of Treasury John Snyder urging that he utilize this order to correct the widespread discriminatory practices in this agency. We have received a reply signed by Acting Secretary of Treasury, E. H. Foley, stating that there was no discrimination at the Bureau and that Negroes were employed in the clerical, trades assistant, and craftsmen categories. He further stated that over 50 percent of the Bureau's employees are Negroes, which he felt compared favorably with any other agency or private establishment. Since that time, the officials have afforded no relief from discrimination to the Negro employees at the Bureau.

Concretely, the discrimination is as follows:

In August 1948 an examination was announced open only to veterans of World War II who complied with certain rigid qualifications for the position of apprentice plate printers. About 30 Negro employees of the Bureau of Engraving and Printing met these qualifications. The holding of the examination would have meant that these men who become apprentice printers, and that subsequently many or all of them could become printers. You should realize that there is not a single Negro printer among the 400 men employed at the Bureau in that capacity.

The examination was canceled after being officially announced. The stated reason for cancellation is that there are enough printers available, so that with the modernization of equipment, there is no need to train apprentices. This statement cannot be reconciled with the following facts. First all plate printers at the Bureau are working 54 hours per week, or 14 hours of overtime every week, at time and one-half rates. Second, we have a communication from Civil Service Commissioner Frances Perkins which says, in part—

For several years we have not been able to recruit all the plate printers the Bureau needs. We have, in fact, recently authorized a temporary appointment for an available plate printer the Bureau was lucky enough to pick up.

I would like to read to the committee a letter of commendation which was written in 1945 by a United States naval commander in the Pacific.

To Whom It May Concern:

Frederick N. Wiggins, boatswain's mate second class has served under my command since December of 1943; first at the naval ammunition depot at West Loch, Pearl Harbor, T. H., and since March of 1945 at this activity.

During the time he served at West Loch, Wiggins was in charge of the boat pool and all personnel attached. The boats under his direction were engaged in delivering ammunition to units of the fleet, both day and night, under most difficult conditions due to black-out regulations then in effect. At no time was there a failure to make deliveries on time and many written and verbal commendations from commanding officers of fleet units were received, not only on deliveries, but also on the clean neat appearance of both the boats and the crews, as well as, the seamanlike manner in which the boats were handled.

During the fire and explosions which wrecked and sunk several landing ships tanks, Wiggins, in charge of a small tug removed a large load of powder to a place of safety, although one of the engines in the tug was inoperative. When this had been done, he continued to operate the tug in rescuing men from the water who had jumped or been thrown overboard by the explosions.

Wiggins was transferred to this activity on March 18, 1945; where he has been in charge of the personnel engaged in the upkeep of the area. His performance of duty has been outstanding and a credit to himself and the naval service.

W. H. SEAM,

Lieutenant Commander, United States Navy (Retired), Commanding.

Mr. Wiggins is here today and, with your permission, I would like to have him stand so that I could ask some questions of him since he is typical of the Negro veteran involved in this situation.

Another type of discrimination that affects hundreds of Negro employees at that agency is the problem that faces the printers' assistants. We have here almost 2,000 employees, almost all Negro, many of whom have held their present positions for nearly 7 years with satisfactory work records and who have developed many special skills. They have been required to compete with 15,000 other persons to attempt to achieve permanent status on their jobs. Yet the plate printers, whose skills may be at a different level but are no more specialized, may achieve permanent status by merely filling out a job application, form 57.

Mr. Chairman, there is present here with me today Mrs. Perritt who is employed as a printer's assistant at the Bureau of Engraving and Printing. With your permission, I would like to have her stand and I would like to ask her several questions.

Mr. Chairman these two conditions high light the existence of discrimination in this agency but in an atmosphere where you find such conditions you will also find many other shocking cases. I have here with me today Mrs. Margaret P. Gilmore whom I would also like to have stand.

Mr. Chairman, this completes the points we had on the Bureau of Engraving and Printing. If there are any questions we will certainly be happy to answer them. The passage of this bill would change these conditions but I would also like to point out that these conditions should be corrected long before the passage of this bill in the interests of fair play and justice.

Mr. Chairman we are particularly happy to see that the bill includes all agencies of the Federal Government, its Territories and possessions, because that will include under the coverage of this bill the Panama Canal Zone where there exists today a discriminatory situation that is a shame to our Nation. I would like to call your attention to just a few facts. Despite the removal of the "silver-gold" terms from the personal journals of that agency, there still is a sharp discrimination between the white American workers and the West Indian Negroes, Panamanians, and other workers formerly known as silver workers. I am listing for your information the difference in wages paid for the performance of the same duties in some of the jobs,

Positions	Local rate	United States rate
Cabinetmaker	\$0.65-\$0.80	\$2.01
Carpenter, grade 8	.65-.68	2.01
Blacksmith	.55-.68	1.99
Baker C	.55-.68	
Baker (less than 2 years' experience)		1.37
Chauffeur C	.50-.62	\$1.67-1.78
Cashier	.30-.60	.93-1.63
Steam engineer A	.32-1.00	2.02
Ice-cream maker A	.42-.60	1.68-2.01
Cable splicer	.60-.62	2.01
Clerical (grade 7 through 13)	.60-1.10	1.25
Dental hygienist	.60-.62	1.60-2.21
Dental mechanic B	.62-.80	1.78-2.45
Helper, mechanical H	.45-.54	1.47-1.55
Manager, clubhouse H	.62-1.10	2.01-2.91
Operator, air compressor	.40-.51	1.84-2.50
Operator, service station (gas)	.60-.62	1.37-1.63
Painter	.50-.62	1.91
Printer	.62-.74	3.14-3.74
Sales clerk	.34-.40	.90-1.63
Saw filer	.50-.62	1.95
Steelwork, ironwork	.50-.68	2.02
Steward, 3 grades for local rate	.60-.90	
Steward, 8 grades for United States rate		1.21-2.59
Upholsterer, 2 grades for local rate	.40-.74	
Upholsterer		1.65
Motion-picture operator	.62-.74	1.51-2.59

I would like to call your attention to the fact that although the school teachers perform the same duties, the West Indian Negroes and Panamanian are not paid the same wages as the white American teachers. Is it that the children of the former "silver" workers are supposed to receive much less education than that received by the children of the former "gold" workers? While I am not at this time delving into the problem of Jim Crow and segregation I do want to point out that the very existence of this system places a discrimination burden on a Negro because he cannot rise beyond the highest point of his separate compartment in that system. The chairman is well aware of the discrimination shown these workers in retirement benefits by our Government because he only recently introduced a bill to correct this inequity. Since H. R. 4453 does cover agencies of the Federal Government, passage of the bill as it now stands will strike a new blow for freedom for the minority peoples here in the United States as well as those employed by our Government on the Panama Canal Zone. We urge the passage of this legislation. The good and decent people of this Nation expect it and want it. The entire world is watching our action on it.

Mr. POWELL. There is one problem which you have there, which I would like brought back next week, and that is the problem of the Panamanians.

Mr. RICHARDSON. Yes.

Mr. POWELL. We are going into that situation. I think this bill does cover the Panamanian situation, which is an everlasting disgrace on our Nation, with its gold and silver standards.

What I would like you to do now is to give us some facts concerning the Bureau of Engraving and Printing, so we can, by a special officer, tonight, inform Mr. Hall as to just what answers we want. In other words, you educate us now.

Mr. RICHARDSON. I have here with me two of the employees of the Bureau of Engraving, and with your permission, I would like to have

one other employee join us here at the table. Mr. Fred Wiggins, if you will just come over here.

Mr. Chairman, the situation at the Bureau of Engraving and Printing is one which is outright discrimination. I sat here today and listened to testimony in which the case of Graham Burrell was mentioned.

Mr. POWELL. That is the one Mr. Hall said he knew nothing about.

Mr. RICHARDSON. I would like to say to the committee, Mr. Burrell's case had an official hearing before a representative of Mr. Hall's office 3 months ago and he was told that the official policy of the Bureau on his case was that it was a job to be performed by women and that he was to be removed, after 13 years. I would like to point out that Mr. Burrell had been employed in the Bureau of Engraving for 33 years. I just wanted to get that out of the way. I don't know why Mr. Hall does not know of Mr. Burrell's case. His representative, Mr. Land, was present and heard the case, and made an official decision.

I would like to point out, Mr. Chairman, that there was some uncertainty with regard to the number of Negroes in supervisory positions in the Bureau of Engraving and Printing. I would like to ask Mrs. Margaret Gilmore if she would tell you just how many Negroes are supervisors in the Bureau.

Mrs. GILMORE. There are two supervisors and one assistant.

Mr. POWELL. Out of how many would you say?

Mrs. GILMORE. Out of about, I will say, 200 supervisors.

Mr. POWELL. Out of 200 supervisors, 2 are Negroes?

Mrs. GILMORE. Two are Negroes, and they are in the char force.

Mr. POWELL. They are supervisors over scrub women?

Mrs. GILMORE. Yes; char or scrub women.

Mr. POWELL. One-half of 1 percent of the supervisors?

Mrs. GILMORE. Yes.

Mr. POWELL. And 50 percent of the employees are Negroes?

Mr. RICHARDSON. That is the entire Bureau, Mr. Chairman. I would like to point out that of a personnel of 6,000 people, over 3,000 of whom are Negroes, you have less than 10 Negroes working in clerical positions.

Mr. POWELL. Are they appointive positions or civil service?

Mr. RICHARDSON. They are civil-service positions. Many of the women who work at the Bureau have taken and passed with high marks clerical examinations, and yet they have often been forced to resign and go to other Government agencies in order to get clerical jobs.

Mr. POWELL. What do you attribute that to? How is it that if a woman takes an examination and gets a high mark that the Bureau does not get her from the civil-service records?

Mr. RICHARDSON. Many of the women who are qualified for clerical jobs come to the Bureau as printers' assistants, which is not a clerical job; it is a sort of a clerical-mechanical job. Although they have taken both the printers' assistant examination and clerical examination, they are brought to the Bureau on the printers' assistant examination. There is nothing to prevent the Bureau, however, from promoting these women to clerical jobs. That is something that can be handled within the agency.

Mr. BURKE. That is without recourse to the civil service?

Mr. RICHARDSON. The experience we had is when agencies make request of civil service with regard to personnel, in terms of promotions, and so forth, the Civil Service goes along with the agency, because the agency knows best what it wants in the operation of the agency. I don't think the Civil Service Commission is the problem here; the problem is a decisive handling of the personnel problem with regard to the races there.

I would like to point out also, Mr. Chairman, that the problem of the skilled employees is one which, while it is complicated, is also a very simple one. Mr. Hall did not know how many Negroes were employed as skilled craftsmen in the Bureau.

Well, we can say that there are no Negroes.

Mr. POWELL. Absolutely none?

Mr. RICHARDSON. No Negroes. Is that correct, Mrs. Gilmore?

Mrs. GILMORE. That is correct.

Mr. POWELL. They get from the civil-service register the skilled employees?

Mr. RICHARDSON. Congressman, to perhaps elaborate a little bit on this question of the Civil Service Commission and its recruiting, I would like to ask Mrs. Gilmore some more questions.

Mrs. Gilmore, will you tell the committee how many of the plate printers have been brought into the Bureau?

Mrs. GILMORE. Within the last year, when this step-up in production had taken place, there have been about three or four hundred printers brought in at intervals from the American Bank Note Co. in New York and the Securities and Exchange Commission in Philadelphia, and printers were brought in from retirement in order to take care of this step-up in production, or in an emergency. It has not been proven, but I understand one white man was brought in from a printer's assistant register and trained as an apprentice. He became a full-fledged printer.

Mr. RICHARDSON. I may just say, Mr. Chairman, that in the Bureau, whether Mr. Hall knows it or not, there is a working cooperation between management and the printer's union, the plate printers union. This is not the typographical printers union but the plate printers union. There is a working arrangement whereby that union supplies the Bureau with skilled personnel. That union is a lily-white union.

Mr. POWELL. Do those workers from the plate printers union come through the civil service at all?

Mr. RICHARDSON. They come simply by filling out a form.

Mr. POWELL. Through a civil-service test?

Mr. RICHARDSON. No test, no examination. The trade sends them in, they fill out a form, and that is all; they are hired.

Mr. POWELL. Are there any Negroes who have had enough experience to take those kind of examinations?

Mr. RICHARDSON. We think we have a number of Negroes who have had enough experience to take those examinations.

Mr. POWELL. Have they made any applications?

Mr. RICHARDSON. I don't know if there were recently any applications directly for a plate printer's job, but I will make this comment with regard to the apprenticeship for a plate printing job:

When the examination was announced last August, a number of Negro veterans applied. It was restricted to veterans and to permanent employees. About 35 Negro veterans applied for the examination, and then there was a long period of waiting and a long period of discussion, and a long period of doing nothing about the examination, when we were reliably informed that the printers' union was opposed to the holding of this apprenticeship examination, because for the first time in the history of this agency Negroes had applied and qualified to take the apprenticeship examination, and there was no doubt that some would pass the examination and become apprentices in the Bureau.

The logical outcome would be that over a period of time there would have been Negroes coming from this apprenticeship into the Bureau as plate printers.

Mr. POWELL. Then they decided not to hold the examination?

Mr. RICHARDSON. They decided not to hold the examination.

Mr. POWELL. Since they decided not to hold the examination, have they appointed any printers' apprentices?

Mr. RICHARDSON. No; they have not appointed any printers' apprentices, but they have brought in all sorts of printers. I would like to say that they have brought in men from retirement. The plant went on a 54-hour week, with 12 hours a week overtime at time and a half for the printers. They have gone as far west as Iowa to bring men here to serve as plate printers, but when they got here they were found to be plate polishers. They are blanketed in, they fill out a form and the Civil Service says, "O. K.," and these people are hired.

On the one hand, they say they are canceling the examination because there is no shortage of plate printers because of modernization, and, on the other hand, they go down and bring men back out of retirement, they go as far west as Iowa and bring in not only plate printers but plate polishers, and then they still maintain there is a shortage of printers.

There is something else I want to say on this question. I had some correspondence with Madam Perkins in the Civil Service Commission on another matter, and she inadvertently pointed out to me that the Bureau had been confronted with a shortage of plate printers for several years, and she had authorized the appointment of a plate printer only a few weeks ago that the Bureau was lucky enough to find.

Mr. POWELL. How long ago was this?

Mr. RICHARDSON. I received the letter about 6 weeks ago from Madam Perkins.

Mr. POWELL. Mr. Hall says, however, they will not hire any for years.

Mr. RICHARDSON. They are hiring them, Mr. Congressman.

Mr. BURKE. May I ask you this: We will take the American Banknote Co., for instance, and that is one of the biggest reservoirs for apprentices in this particular trade, is it not?

Mr. RICHARDSON. Yes; I would say that.

Mr. BURKE. New York State has now had an FEPC law in operation for some 4 years. Do you know if there are any apprentices in the American Banknote Co.?

Mr. RICHARDSON. I don't know, Mr. Burke. We could find that out, we could look into that.

This is sort of a tangent to your question, but I just want to point out that, when Mr. Truman issued his fair employment order for the Federal service, our members at the Bureau of Engraving—our Negro members—looked forward to the elimination of discrimination at the Bureau of Engraving, and it was on the basis of their instructions that their union began to raise with the management point after point of discriminatory practices, with the hope that the custom would be stopped. All we have been confronted with over the past 10 months has been evasions. We feel certainly when the chief administrator announces his policy on this question through an Executive order and has called for compliance and cooperation by the agencies, that the agencies ought to spend their time not in finding ways to evade the application of the order but in finding ways to make the order work.

Mr. Powell, I would like very much for you Congressmen to know the kind of men who applied for this examination and who were turned down, men who are being discriminated against now on this question.

You have heard the letter I read in regard to Mr. Fred Wiggins, and I would like to ask Mr. Wiggins some questions.

Mr. Wiggins, how long have you been employed at the Bureau?

Mr. Wiggins. Since 1936.

Mr. RICHARDSON. Have you had any experience in any printing trade?

Mr. Wiggins. I have.

Mr. RICHARDSON. How much?

Mr. Wiggins. Fifteen years.

Mr. RICHARDSON. Does that mean you work in your spare time as a printer?

Mr. Wiggins. Yes; in my spare time.

Mr. RICHARDSON. Were you trained in any school as a printer?

Mr. Wiggins. Yes; I was trained at Shaw and Armstrong Technical High School.

Mr. RICHARDSON. As a printer?

Mr. Wiggins. Yes.

Mr. RICHARDSON. Have you ever had an efficiency rating less than "good," Mr. Wiggins?

Mr. Wiggins. I have not.

Mr. RICHARDSON. Have you noticed anything about the printers who have been hired at the Bureau during the past 6 months?

Mr. Wiggins. Yes; I saw the group that came in from the American Banknote Co. on the morning they were hired.

Mr. RICHARDSON. Did you notice anything else?

Mr. Wiggins. I noticed one of the fellows who was recalled from retirement who was so old he has to stay in the locker room most of the time.

Mr. RICHARDSON. Mr. Wiggins, do you have any other comments about the situation at the Bureau?

Mr. Wiggins. Well, I really would like to enjoy some of this democracy that I fought for, that I was told I would receive after the war was over.

Mr. RICHARDSON. Mr. Chairman, that is the statement of Fred Wiggins. From 1942 to 1945 he was in the Pacific and he is one of the group of 35 Negro veterans who have been given this run-around on this question of getting training for a skilled trade.

Mr. BURKE. May I ask Mr. Wiggins a question?

Mr. POWELL. Yes.

Mr. BURKE. I think this applies to you. 'This is case No. 1, Frederick Wiggins. It states you have had extensive training outside of your own trade in linotype work and composing room and printing operations.

Mr. HALL testified they used only about six people in that type of work in the Bureau. Is that right?

Mr. WIGGINS. That is not true. I have had the experience of being a messenger there, in the Bureau, before I was promoted. I had occasion to go through all of the sections, the composing room and the other sections—there are more than six. When I was promoted to CM-1 I was permitted to work on the press by the pressman, and when he was not there I operated the press.

Mr. POWELL. You have operated the press?

Mr. WIGGINS. Yes. In the school I ran a cylinder press. This is the flat-bed press. I worked for 3 years on the offset press. That is the type they use in the Post and Star buildings.

Mr. RICHARDSON. Then you feel you were qualified as a full journeyman in that type of work?

Mr. WIGGINS. Yes, I do.

Mr. BURKE. You were willing to take this examination for apprenticeship in the other trade?

Mr. WIGGINS. Yes. I have also a trade in brick masonry. They also have that craft down there.

Mr. POWELL. They have the brick masonry craft in the Bureau of Engraving?

Mr. WIGGINS. Yes.

Mr. POWELL. They engrave bricks and throw them at you?

Mr. WIGGINS. They have something rougher than bricks to throw at you.

Mr. BURKE. That is probably in the maintenance division; is that not true?

Mr. WIGGINS. Yes.

Mr. POWELL. What about the maintenance division? How does one get employed in that maintenance division?

Mrs. GILMORE. The Bureau has a policy of taking people from the production division, the division I work in as a skilled helper. I came from the printer's assistant appointment to an examiner. The Bureau has the policy of consulting with the supervisors and telling them there are so many openings in another division and they may pick their choice, and of course they take white. In all of the divisions there, every division, even in the clerical division, it is the same policy. They require you to file a blank stating your qualifications, and after you file it it is up to the supervisor as to just how well he likes you, as to whether he wants to select you to that particular job.

Mr. POWELL. The key to the whole problem is the supervisor.

Mr. RICHARDSON. A large part of the key.

Mr. POWELL. There is your whole story.

Mr. RICHARDSON. Mr. Chairman, I noticed a question that was being asked, I believed it was of Mr. HARD. I think the Congressman here asked about the question of reprisals when you try to appeal to your immediate supervisor on the question of discrimination.

I think the clearest example of the kind of reprisals that can be taken, has been taken and that will be taken is the reprisal which was taken on Graham Burrell.

He was being discriminated against because he was a Negro. He went to the immediate supervisor and the upshot of the thing was he was taken off of the job. He was told it was a woman's job. On this question of there being no reprisals there, there are reprisals.

I would like to bring to your attention, because of the fact that such emphasis was placed on the responsibility of the Civil Service Commission, the case of Mrs. Ethel C. Perritt, who is a printer's assistant in the Bureau.

Mrs. Perritt, I would like to ask you, with the chairman's permission, just one or two questions.

How long have you been employed at the Bureau?

Mrs. PERRITT. Approximately 8 years.

Mr. RICHARDSON. Were you appointed to the job from a civil service examination?

Mrs. PERRITT. From the printer's assistant register. I took the examination in 1941.

Mr. RICHARDSON. Why is it that you are a war-service appointee still?

Mrs. PERRITT. I am still a war-service appointee because I was hired at the Bureau just a few days after March 15.

Mr. RICHARDSON. Mrs. Perritt, do you feel that you learned any special skills during your period of 8 years employment at the Bureau as a printer's assistant?

Mrs. PERRITT. Yes; I believe I have been able to learn how to perform my duties in such a way that I can avoid the spoilage of money. That is definitely because I have had the training. You can only get this experience at the Bureau of Engraving and Printing, since there is no other place in the country that does comparable work.

Mr. RICHARDSON. Mrs. Perritt, would you tell the Congressmen a little bit more about the kind of work you do? When you are at the press, what happens at the press? There is a printer and two printer's assistants, is that right?

Mrs. PERRITT. That is right.

Mr. RICHARDSON. What do you do?

Mrs. PERRITT. At the press, as you stated, there is a printer and two printer's assistants. One has to lay the money on and the other take the money off. We do that in terms of, say, 600 sheets of paper.

First we have to get the paper that we need to print, and we have to be extremely accurate in placing the money on lines on these plates, and if that money is the least bit off, it is spoiled and naturally it is thrown out. You can see it takes months of experience, and it takes a certain amount of skill to be able to do that in the allotted minute that you have so many sheets of paper to go through.

Mr. RICHARDSON. Mrs. Perritt, does the printer depend upon the printer's assistant in the performance of the job of printing the money? In other words, I mean when a new printer comes in is he able to take that press and just go on and start printing the money?

Mrs. PERRITT. Definitely not. He is hardly acquainted with the mechanisms of the plate printing process. As I say, the printing of money is not done anywhere but in the Bureau of Engraving and

Printing. He has to get used to it himself. Naturally they will put two experienced girls with him, girls in whom they have respect for their ability, and they have to practically tell him everything about the work. Of course we are not supposed to know how to run the presses. We probably do, but we don't touch anything, because we know we are not skilled in that, but it depends largely upon us to train him in the work.

Mr. POWELL. How much is your salary?

Mrs. PERRITT. We get about \$1,700.

Mr. POWELL. And he gets \$8,000?

Mrs. PERRITT. That is right.

Mr. RICHARDSON. May I ask just one other question?

Mr. POWELL. Certainly.

Mr. RICHARDSON. Mrs. Perritt, are the printers at the Bureau also war-service appointees?

Mrs. PERRITT. Yes; we have some that are war-service appointees, but quite a few of them who were war-service appointees were sent to the cafeteria simply to fill out form 57, then they are made permanent. We had to take a competitive examination. They are Government employees soon after they are trained—6 weeks or more—they are blanketed in.

Mr. RICHARDSON. They are given permanent jobs, while you and some 1,800 other women were forced to take the civil service examination?

Mrs. PERRITT. Yes.

Mr. RICHARDSON. Congressman, I think this is very important, because the onus has been placed on the Civil Service Commission. I do not think it is there. The Civil Service Commission schedules an examination when an agency requests it, you see. Now here are these 1,800 women who have been forced to take another examination, civil service examination, in order to get permanent jobs, while at the same time you have just heard Mrs. Perritt explain to you her duties on the job, and she has explained to you how often fellows come in who are printers, whom she helps to adjust to the job, and they are given a permanent status after being on the job 6 weeks by simply filling out form 57, and yet she has to go down, with the other 1,800 women, and compete in a national competitive examination against 15,000 people throughout the country.

I just want to point out one more thing, Mr. Chairman, with regard to this situation, and that is that the Veterans' Preference Act would not be affected one whit by this situation because this job is restricted to women and there are only a few Wacs or Waves or Spars who might be interested in the job, but we haven't found any yet, because it is such a low-paying job. The agency could have requested the Civil Service Commission, or the White House, to blanket in these women just as the printers have been blanketed in, and if that had been granted the whole problem of approaching unemployment for Mrs. Perritt and the other 1,800 women would be solved, and the Government would not have to spend money to train new people.

Mr. BURKE. May I ask a question? If these people who are semi-skilled, and such a degree of skill is required, receive only \$1,700 a year, what do the charwomen receive?

Mrs. PERRITT. I was wrong in that. There has been a raise since.

Mrs. GILMORE. \$2,400 for the printers' assistants, and for charwomen, \$2,100.

Mrs. PERBITT. I made a mistake.

Mrs. GILMORE. We have had a raise.

Mr. RICHARDSON. There was an increase. I think it was last year.

I think that states the problem of the printers' assistants. I would just like to point out this, Mr. Chairman: This problem is going to be solved one way or another in another 6 weeks, because at the end of the fiscal year, it has been spread around pretty much down at the Bureau, that these women who have not made as high marks as some of the people on the outside of the Government are going to lose their jobs. You can appreciate the fact that women who have worked on their jobs for years cannot go into an examination room and answer questions as readily as someone who has just come out of school. We feel that there is an arbitrary application in this business of examinations that has taken it over into the area of discrimination. We have not been able to get this thing solved. We have communicated with Mr. Hall, with Mr. Foley, with Mr. Snyder, with the Civil Service Commission, with the White House, and we have not been able to get satisfaction.

Many women are heads of families and they face the problem of unemployment, because they cannot take the skills that they learn there and find another job. It is simply a waste of personnel, of Government money, to not blanket these people in, as the white plate printers have been blanketed in and are being blanketed in in that agency.

Mr. POWELL. I realize this is putting a big responsibility on you, but this committee would welcome you giving to us, as quickly as possible, a summary of the facts that you have presented here now. We would like just a summary. Make it as specific as possible.

Mr. RICHARDSON. Yes.

Mr. POWELL. Plus any recommendation which you have as to what we can do as individual Congressmen.

Mr. RICHARDSON. Yes.

Mr. POWELL. Would you get that to us as quickly as possible and let us work on it, and also give us something to shape our questions to Mr. Hall when he comes back?

Mr. RICHARDSON. All right. We will be glad to do that, Mr. Chairman.

Could I just raise one other point?

Mr. POWELL. Yes.

Mr. RICHARDSON. I noticed you asked about segregation in the cafeteria. That does not take place in the Bureau of Engraving.

Mr. POWELL. At the Government Printing Office.

Mr. RICHARDSON. Mrs. Gilmore has said time and time again if she ever came over here before this committee there is one thing she wanted to tell the Congressmen sitting on that committee, and that is what takes place with the Negro employee not only in terms of job discrimination but in terms of the whole smashing of his personal dignity as a human being.

Mr. POWELL. In the Bureau of Engraving?

Mr. RICHARDSON. In the Bureau of Engraving. Mrs. Gilmore, will you just tell the Congressmen here what you told me last night?

Mrs. GILMORE. I have been with the Bureau 15 years. I am a permanent employee there. I am a widow of a World War veteran of World War I. Since my employment there I have steadily seen white girls come in and raised to the top, with a small amount of education. We have girls with master degrees at the Bureau of Engraving.

Mr. POWELL. You have Negro women with master degrees?

Mrs. GILMORE. Negro women with master degrees.

Mr. POWELL. In the Bureau of Engraving?

Mrs. GILMORE. In the Bureau of Engraving. Some of them have had about 30 years of service there. They have sat there and watched white girls placed over them.

Mr. POWELL. Why is it that you haven't taken these cases before the Fair Employment Board?

Mrs. GILMORE. We have taken the cases before the Fair Employment Board.

Mr. POWELL. Has not he said he had not any cases?

Mr. RICHARDSON. Oh, yes; he has had them.

Mr. POWELL. He said he received certifications.

Mr. RICHARDSON. Yes; he has had them. I think he will amend his statement further.

Mr. POWELL. Will you give me the facts on this?

Mr. RICHARDSON. Yes; I will give you the chronological development of these things.

Mrs. GILMORE. Then, too, Congressman Powell, we are compelled to sit in a segregated room in every division.

Mr. POWELL. You mean the work is done separately?

Mrs. GILMORE. No; we are seated separately. The work is the same, we do the same kind of work, but we have to sit in back of the room and the white are put in the front of the room in every division.

Mr. POWELL. Will you put that down, Mr. Richardson?

Mr. RICHARDSON. Yes.

Mrs. GILMORE. When our children come down on the official school tours we are ashamed. When we go home that is the first question they ask: "Mother, or Dad, why are the white people in front and you all the way in the back? We can't see you half the time."

Mr. POWELL. This is regardless of the seniority?

Mrs. GILMORE. This is regardless of the seniority. They don't pay any attention to that. That is absolutely discrimination.

Then in the locker rooms we are partitioned off, and the toilet facilities are also partitioned off, with the Negro on one side and white on the other, and of course some of them are very unsanitary. We are compelled to do that.

Mr. POWELL. You mean the toilet facilities are not only separate, but in the language of the Supreme Court, are not given equally?

Mrs. GILMORE. That is right. We are reminded that we are George, Mary, and so forth. It is very obvious that we must never be expected to be called Miss or Mrs.

Mr. POWELL. But as regards the separation of the rest and locker rooms, that is very important. You present that in your memorandum.

Mr. RICHARDSON. Yes; we will include everything.

Mr. POWELL. The committee stands adjourned until 10 tomorrow morning.

(Whereupon, at 4:10 p. m., the committee adjourned until 10 a. m. of the following day, Friday, May 20, 1949.)

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

FRIDAY, MAY 20, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Adam C. Powell, Jr. (chairman), presiding.

Mr. POWELL. The committee will come to order. We are having as our first witness this morning Mr. Leo Cherne who is the treasurer of the National Citizens Council on Civil Rights.

TESTIMONY OF LEO CHERNE, TREASURER, NATIONAL CITIZENS COUNCIL ON CIVIL RIGHTS

Mr. CHERNE. Mr. Chairman and members of the committee, the opportunity to testify on behalf of H. R. 4453 is one I value more highly than I can convey to this committee. I shall, with the exception of a few introductory comments, confine myself to the economic implications of the proposed legislation.

Some time ago I was requested by General MacArthur to prepare a tax and fiscal program for submission to the Japanese Diet. Several months in Japan in connection with that assignment enabled me to understand more fully some of the problems of that portion of the world. Just prior to that occasion, somewhat similar mission enabled me to observe at first hand a number of the economic and social problems which trouble the European Continent.

On both occasions I found the economic problems inseparable from psychological and social attitudes. And in both cases, as a citizen of the United States, I would have been grateful had I been able to point to legislation on our national statute books comparable to H. R. 4453.

Whatever the nature and however far the extent of our participation in world affairs, discrimination—particularly that directed against the Negro—is the heaviest millstone around the neck of American foreign policy. In our effort to prevent Soviet domination of independent and democratic nations, a Federal law against discrimination in employment will in our influence abroad be worth the sum we are called upon to appropriate under the Atlantic Pact. And so that I may be completely understood, may I say that I wholeheartedly support every peaceful effort that will successfully impede the westward march of the Russian police state.

Now that official Soviet anti-Semitism more clearly makes a mockery of her pretense to racial and religious liberty and equality, we

have a further golden opportunity to win another battle in the war of ideas.

There are equally valid day-to-day, dollars-and-cents reasons right here at home for enactment of the Federal fair employment practices bill. Any community of workers that is discriminated against in employment is also a community of consumers who discriminate against the purchase of American-made goods.

Any man who can't earn can't buy. The bare subsistence group in the American community is not in the market for radios, automobiles, washing machines, nor even bathtubs. When the average salary of one teacher in Southern elementary schools is only 60 percent of that of another teacher, quite obviously that Negro teacher is only 60 percent the purchaser. He provides only three-fifths the economic stimulation to our total society that he is capable of.

In the rural South, the Negro family's income is only one-half that of his white neighbor. In the Southern city it is only one-third as large. In the North, the average white family income is almost 60 percent higher. It is estimated that in the South 80 percent of all Negroes fall into the lowest income bracket as compared to less than 25 percent of the white population; and while in a normal year 18 percent of the white population will earn over \$2,000, only one-tenth of 1 percent of Negroes will do so.

In other words, America's magnificent productive capacity and its even more remarkable standard of living are not shared by 1 in 10 of our citizens.

Furthermore, the costs of discrimination in terms of productivity, although difficult to measure, are substantial. When an employer is limited in his choice of qualified employees to certain racial or religious groups, he cannot always choose the most skilled man for the job. Every time he must hire the poorer man, productivity suffers and costs of production are increased. Likewise, when a skilled mechanic must take a job as a servant, the community suffers a double loss. Not only is his productive capacity unutilized but our investment in his education is wasted.

Most of the old arguments against the employment capabilities of the Negro evaporated during the war years. By mid-1944 almost 120,000 Negroes were employed in the manufacture of planes and tanks, in the aircraft and automobile factories of the Nation. Almost 200,000 were in the shipyards and about 100,000 were in the electrical machinery and equipment plants from which, incidentally, they had been almost totally excluded before the war. The numbers of Negroes employed in transportation and communications almost doubled during the war years.

Altogether, in manufacturing and processing alone the number of Negroes employed increased from 500,000 in 1940 to one and a quarter million in 1944. While the total of Negroes employed in war industries was less than the national proportion of Negroes, in some industries—such as shipbuilding and the manufacture of ammunition—their numbers even exceeded their proportion of the total population.

No economist can precisely indicate the dollars-and-cents cost of certain aspects of discrimination. But we do know that the following conditions involve an enormous national cost: The Negro's average life is 10 years shorter than that of the white. Three times more

Negro than white women die in childbirth. Illness and disease do not confine themselves conveniently within color groups. Wherever the death rate for the Negro is higher, so too does the death rate rise for the members of the white race. In those States in which infant mortality among the Negroes is greatest, the deaths of infant white children are greatest.

There are many times when an economist wishes he could actually compute the dollars-and-cents value to our Nation of a single life. We know that life has a value. A live person works, buys, builds, expands, stimulates every facet of our economic activity. To the extent that we fail to protect the lives of any group, we diminish the fruits of our society and the share of each of us in them.

All the factors add up to an enormous cost to any area where a large segment of the population is discriminated against. The States which had a per capita income of only \$300 in the boom year of 1940 were those in which discrimination was greatest, whereas the income for the more democratic States was the highest per capita in the country, averaging \$800. There have been responsible estimates that the total cost of discrimination in our country is more than \$15,000,000,000 a year.

There are valid economic reasons for the United States seeking and enjoying markets in other countries. There are few people who question that any increase in the living standard of the French or the English or those in Greece and Italy will enlarge the demand for American goods and services.

President Truman's celebrated point 4 to assist the economic growth of the underdeveloped areas of the world captured the hope and imagination of the world. There can obviously, therefore, be no valid arguments against the removal of those arbitrary barriers to the expansion of economic opportunity for any groups in our own country now suffering discrimination.

The bill to establish Federal fair employment practices would make a real contribution in this direction with the minimum of confusion, irritation, and readjustment. Each economic advance in the history of the United States has been achieved by the elimination of an area of distaste, social myth, or prejudice.

We of the National Citizens Council on Civil Rights believe this program is the minimum which is acceptable to those who seek a genuine advance in civil rights, and we consider the Federal Fair Employment Practice Act as the keystone of that program.

I feel privileged to have been able to have these few words in behalf of the effort which this committee is considering.

Mr. POWELL. Mr. Cherne, thank you for your statement. I would like to note that, without exception, everyone, from the Secretary of State on down to Senators Ives and Humphrey, and Mrs. Douglas—everyone stressed the international aspect of FEPC, which is different from the testimony that we heard when we first considered this, when I first came to the Congress in the Seventy-ninth Congress.

Now everyone mentions the international aspect. In fact, Representative Burnside, former professor of political science in West Virginia University, who was in charge of and one of the top men in the Far East propaganda broadcast during the war, said:

They are always asking why is there a difference between principles in America and practice, and the people in the Far East.

I would like you to just expand a little on this official Soviet anti-Semitism, not so much as a part of the hearings but just as a point of information and education.

Do you know much about that?

Mr. CHERNE. Well, I know a fair amount about it.

Mr. POWELL. Let us hear it.

Mr. CHERNE. I have studied the Soviet press and I got a lot of my information from there.

Mr. POWELL. Wasn't there a time when the Soviet had a lot of Jews in the top echelon and today there is only one?

Mr. CHERNE. As a matter of fact, today there are none.

Mr. POWELL. None?

Mr. CHERNE. No. It is not true that the Soviet Government at any time had a considerable number of Jews in the top echelon. That is one of the myths spread by Gerald Smith in an attempt to demonstrate the synonymous character of communism and Judaism.

But something else has changed in the Soviet Union. It was found desirable, within the last 6 months, to use antisemitism as an official instrument for building up Russian nationalism. It is a revival, interestingly enough, of an expression that was quite common in Russia during the days of the czar, an expression that was used in order to approve the pogroms in Russia, when the Jew was called a homeless cosmopolitan.

The phrase "homeless cosmopolitan" is a phrase that has not been used in Russia since the czar days. Now it is the arch crime of all. It is interesting to look at the definition of "cosmopolitan."

To be a cosmopolitan is to be without local prejudice, to be at home in any country. In the Soviet Union to be a cosmopolitan is the arch crime. It runs in direct contradiction to Soviet nationalism.

Within recent months, for example, just within the last 90 days, of 100 artists, scientists and economists who have been purged from positions in the Soviet Union, 99 of the 100 were Jewish. They use interesting phrases in conjunction with the Jew who is accused of cosmopolitanism. He is called a "passportless wanderer," the old concept of the Wandering Jew who is without any nation that he can call his home.

Wherever a Jew is singled out for adverse comment in the Soviet Union the newspaper stories will carry both his Russian name and his Jewish name. It has been the practice ever since the Russian Revolution for many people, especially the people in the top echelon, to take the party name. Stalin has a party name, and Molotov has a party name. They are not the names with which those gentlemen were born, but they are names that they adopted. No reference is made to the original name when it applies to those people, but now whenever a Jew is mentioned, both the party name and the Jewish name is used. I said it was official antisemitism. Nothing happens in the Soviet Union which is not official. Nothing appears in Pravda or Izvestia which is not official. When you have, for a period of 90 days, a simultaneous use of the identical phrases, identical charges against the identical group of people in the technical journals, in the popular journals, in the magazines and daily papers, you know you are witnessing a concentrated program of the government.

Interestingly enough, it comes as a surprise to some people that the Soviet Government would use anti-Semitism. This is not the first

occasion that the Russian Government has used anti-Semitism as a weapon of nationalism. You recall when General Kravitzky was found dead in a Washington hotel. General Kravitzky was the leading general in Spain, but he broke with the Russian Government and came to the United States for refuge, and was suddenly found dead under circumstances that quite obviously were not suicide. The Communist press in the world pointed out that literally he was not General Kravitzky, that his real name was Schmuelka Ginsberg.

It was interesting to note, in reading the New York Times just this morning—as I recall it was on page 2—there is the latest of a series of stories of a group of people who have been discharged for cosmopolitanism, and without a single exception each one is Jewish, and without a single exception the Jewish name is listed after the Russian name. This, as I indicated in the testimony, is another wonderful, wonderful opportunity for us to demonstrate that we move progressively toward a more completely democratic society, while the Soviet Union makes a mockery of every democratic pretense that she and her party people have held.

Mr. POWELL. I should like to also comment on your testimony and say from my many years of experience in promoting civil rights this is the first time I have seen estimated what it costs America to discriminate. I am in thorough agreement with you that the cost of discrimination in the United States is more than \$15,000,000,000. I am not an economist, but you are, so it is not just guesswork on your part when you arrive at a figure like that.

Mr. CHERNE. I have made as precise an effort to calculate, and in as cold terms as possible, what the actual dollar loss is to the national economy in terms of differentials which exists, in both standards of living and standards of productivity, and standards of consumption for the discriminated groups, and the minimum estimate I can reach is \$15,000,000,000, which is a very considerable loss in the United States.

Mr. POWELL. This is the first time I have seen a sum, and coming from you I accept it without any hesitation, because that is your business.

We have a letter before us, which I am very happy to insert in the record, coming from the Toledo Small Business Association, of Toledo, Ohio, and with this letter they have a carbon copy of their letter to Governor Lausche, the Governor of the State of Ohio.

The Small Business Association is violently opposed to an Ohio FEPC and has written to my colleague, Representative Burke of Toledo, that they are opposed to one here.

While this question has been answered by such outstanding businessmen as Nelson Rockefeller, yet I would like you to answer just one or two items here, as an economist. He says:

A bill compelling a businessman to hire or keep an employee against his personal judgment of what is best for his business, is not only handicapping his business, but it is taking from him a freedom of choice and opportunity that should be his. A freedom that can easily mean the difference between his failure and success.

There will come a willing and an undisturbing destruction of discrimination in employment, and it can only come, when and as reasonably large percentages of the groups involved become qualified intellectually, morally, spiritually, and socially as well as skill.

There is one item in here where he points out that such a measure would hurt business, regardless of what they say in regard to the New York State FEPC. It would hurt business, that is the general tone.

I would like this letter from the Toledo Small Business Association, opposing FEPC, to go in the record.

(The letter referred to is as follows:)

THE TOLEDO SMALL BUSINESS ASSOCIATION,
Toledo 4, Ohio, May 18, 1949.

Hon. THOMAS H. BUCKE,
House Office Building, Washington, D. C.

DEAR TOM: I notice in your letter of May 13 your reference to national FEPC. We are enclosing you a copy of a letter we wrote to the Governor of the State on this subject, which pretty well expresses our stand.

I'm afraid that you see most of one side, and feel that all it takes is a law to accomplish an end.

From where we sit, these FEPC laws already in existence have cost the taxpayers an awful lot of money, and while they haven't stirred up any serious situations yet, you just let it go along until all of the States have them, or there is a national one put in, and then see what trouble the communes, and some others like that can and will make.

The above refers to the general situation whether it has reference to big business, small business, or economy as a whole.

From the standpoint of small business, it just isn't fair to force this issue, and there is no use kidding ourselves that an employer doesn't have to hire somebody, because the history in New York State and one or two others show that when the law is in, there is dictation as to whom they shall hire.

When the public and our employees draw no lines on race, religion, creed, or color, we won't have any trouble with employers.

Yours truly,

TOLEDO SMALL BUSINESS ASSOCIATION,
O. E. M. KELLER, President.

MARCH 4, 1949.

Hon. FRANK J. LAUSCHE,
Governor of the State of Ohio, Columbus, Ohio.

MY DEAR GOVERNOR: Until discrimination is removed from the desire of employers and customers, business should not be expected to be able to remove it, nor should it be asked to force its removal.

Business should not be asked to do by force what churches, schools, civic groups, and unions have failed to do by education. Business was not instituted, nor implemented for such a program.

A bill compelling a businessman to hire or keep an employee against his personal judgment of what is best for his business, is not only handicapping his business, but it is taking from him a freedom of choice and opportunity that should be his. A freedom that can easily mean the difference between his failure and success.

All this can change automatically as those groups grow in qualities that create and command public acceptance.

There will come a willing and an undisturbing destruction of discrimination in employment, and it can only come, when and as reasonably large percentages of the groups involved become qualified intellectually, morally, spiritually, and socially as well as in skill. Then there will be public acceptance and the employer will not be penalized by the public nor his employees.

Small business generally succeeds and continues through personalized service, close cooperation and coordination of employees, and great respect and regard for the wishes of the customer.

We are not educators, we are not preachers, we are not social workers, we are not union leaders. We are willing to work with them toward a goal of equality of acceptance. But, we insist we alone must not be asked, let alone forced, to do a job that rightfully belongs to others. A job for which we are not equipped—a job which increases our problems and decreases our chances for success.

We already are subject to dictation from too many levels and sources now. We violently object to another empirical law with its accompanying dictation and dictators.

Get the public and employees to the acceptance of equality and the removal of discrimination and you will have no trouble with employers where qualifications are equal.

We sincerely hope that this bill will not be passed—and if passed, that you will veto it.

Yours very truly,

THE TOLEDO SMALL BUSINESS ASSOCIATION,
WILLARD M. CANNA, *Chairman, State Affairs Committee.*

Mr. POWELL. I would like you to answer that.

Mr. CHERNE. I would like to address myself briefly to each of the points raised by that letter.

First of all, in terms of legislation compelling businessmen to select people of lesser capacity, and there is no State FEPC, nor is it contemplated in the Federal bill which I studied, that any business would be required, under any circumstances, to limit its freedom of choice with reference to capacity.

There is quite the contrary. There is the desire, through this legislation, to open up to business an opportunity to use people of capacity who are not being employed and whom many businesses would like to employ if the social pressure against it were removed.

In the case of New York, for example, I know of no single business institution which has found that the operation of the State law has either reduced the capacity of the company in its freedom of employment, or the total capacity of the company to produce the goods and services of that company.

Mr. POWELL. The Massachusetts FEPC Commissioner testified 2 days ago that since the Massachusetts FEPC had been enacted the Boston Chamber of Commerce has approved it, and he pointed out that there has been \$300,000,000 of new business because of it.

Mr. CHERNE. That is the second point that I wanted to make, that not only is it not harmful to business, but the whole essence of my testimony indicates that the effect of legislation of this character will improve and enlarge the consumption of the output of business, as it has in the States in which it has been applied.

Thirdly, I think this is, in many ways, the most fundamental point, and that is that legislation of this character limits the freedom of activity and judgment of what is good for business. I think it must be pointed out that many items of legislation which businessmen now welcome provide limitations within which business may ethically function.

For example, the pure food and drug legislation limits the ability of businessmen to do certain things in the sale of foods and drugs that they were formerly able to do, and yet the result of the legislation has been to increase the sale of foods and drugs, and to improve the satisfaction of businessmen in the sale of foods and drugs by establishing an ethical boundary beyond which a business firm cannot go.

The Federal Trade Commission rules limit the ability of businessmen to do certain things, to compete unfairly with their fellow businessmen, but by that process the enjoyment of business and businessmen has been enhanced, the consumer protected, and an ethical environment established within which business is conducted.

The FEPC bill which your committee is considering does precisely that. It in no way imposes upon a businessman in his judgment as to whom he must hire. It says to him he may not select on an arbitrary basis which has no relationship to skill.

Mr. POWELL. Thank you.

Do you have any questions, Mr. Burke?

Mr. BURKE. I think we can add to that the Bureau of Standards.

Mr. CHERNE. There are a limitless number of those instances.

Mr. BURKE. I would like to develop a little further this anti-Semitic policy of the present Russian Government. Doesn't that bear out the statements that have been made in years past by students of the totalitarian concept, that totalitarianism in itself must feed and must use as one of its implements prejudice of that type in order to become successful and to maintain and sustain its power, that it has to set one race or one group of people against another?

Mr. CHERNE. Inevitably. There isn't a totalitarian or authoritarian society that I know of—and I studied a considerable number of them and have had first-hand contact with several—which has not found it necessary to establish a scapegoat by which any aggressive feelings against the government itself might be directed elsewhere and by which the power of the government might be continually sustained. A totalitarian society must always emphasize two kinds of threats, it must continually emphasize the threat of external aggression and it must emphasize the threat of internal destruction.

No matter how completely the Soviet Government wipes out every counter-revolutionary movement, it must continually insist there are counter-revolutionary movements threatening society.

Mr. BURKE. And they are unscrupulous enough to use it both ways, that is, it must exploit the misery of people on the one hand and accelerate the misery of people on the other, isn't that right?

Mr. CHERNE. Yes. One of the most outrageous things in the history of the Soviet Government has been that with the exception of Stalin, not a single member of the original executive committee of the revolution is alive. Every one of the remaining members either fortuitously died a natural death or was assisted in his demise by the state.

Mr. BURKE. And that method carries over into those parties that are established for the promotion of that concept even in our democracy, such as the American Union Party, the anti-Fascist groups?

Mr. CHERNE. That is right. There is no one so ruthless as the American Communist to eliminate deviation from the principles in his own party. If one of the members disagrees with any of the dogmas he will be ruthlessly assassinated. They did a job on Earl Browder, the like of which has never been seen in American politics.

Mr. BURKE. They don't stop at exploitation of race against race for their own ends. We had a very graphic illustration of that yesterday.

Mr. CHERNE. Incidentally, may I make this additional point, with reference to the economic question and the protest raised by particular business groups.

May I point out that the National Citizens Council on Civil Rights includes some of the most eminent businessmen of the community. I would like to mention a very few: William L. Batt, Gardner Coles, Eric Johnston, Albert Lasker, Edward McGrady, Frank Stanton, Gerard Swope, Herbert Bayard Swope, and Albert Vanderbilt, to mention a few of those with very substantial interests and permanency in America, who completely support the statement which I present.

Mr. POWELL. Thank you, Mr. Cherne.

Mr. CHERNE. Thank you.

Mr. POWELL. Our next witness will be Mr. Stetson Kennedy.

**TESTIMONY OF STETSON KENNEDY, A FORMER MEMBER OF THE
KU KLUX KLAN AND THE COLUMBIANS**

Mr. POWELL. Mr. Kennedy, would you mind if I asked you some questions?

Mr. KENNEDY. Very well.

Mr. POWELL. Would you kindly give your name to the clerk?

Mr. KENNEDY. My name is Stetson Kennedy, born in Jacksonville, Fla., in 1916.

Mr. POWELL. Your grandparents fought in the Civil War?

Mr. KENNEDY. Well, with all due respect to my grandparents, there was only one who did actually fight for the Confederacy. I am afraid that had I been alive at that time I would have been either a scallawag or what was otherwise called a galvanized Yankee. I don't take stock in such things personally, for the benefit of anyone who might, it is true that two of my Southern forebears did sign the Declaration of Independence.

Mr. POWELL. You mean the Confederate declaration of independence, Mr. Kennedy?

Mr. KENNEDY. No; the American Declaration of Independence. That is more to my liking.

Mr. POWELL. Now, Mr. Kennedy, you have been working in the South during the past month, and at one time you were a member of the Ku Klux Klan?

Mr. KENNEDY. I held Klan card No. 7800. I joined the realm consisting of Virginia, West Virginia, Maryland, and District of Columbia.

Mr. POWELL. The District of Columbia?

Mr. KENNEDY. Yes; that is also included.

Mr. POWELL. You mean the Klan operates in the District of Columbia?

Mr. KENNEDY. At the present time it is operating under the front name of American Shores Patrol.

Mr. POWELL. In the District of Columbia?

Mr. KENNEDY. Yes.

Mr. POWELL. Where are its headquarters?

Mr. KENNEDY. The founder of the American Shores Patrol is Mr. Joel Baskin, who died in December. He headed up the Klan's national headquarters here in the Capital during the heyday of the Klan for several decades. He founded the American Shores Patrol at the height of the war as a front for the Klan. I might add that my American Shores Patrol card—and I have the cards with me, if you are interested—is identical with the Klan card, but it says "ASP" in one corner instead of "AGK," which stands for Association of Georgia Klans.

Mr. POWELL. How long were you a member of the Klan? When did you join?

Mr. KENNEDY. I joined in 1946 and was in good standing for over a year, until the publication of my book Southern Exposure, whereupon I was banished from citizenship, as they call it.

Mr. POWELL. You also belonged to the Columbians?

Mr. KENNEDY. Yes; I held a card in the Columbians—card No. 5101, which means I was the sixteenth person to join. It jumped from 15 to 5101.

Mr. POWELL. Let me see the cards.

Mr. KENNEDY. I will be very glad to show them to you. I have a sheaf of other documents from both the Shores Patrol and the Klan.

Mr. POWELL. This is a photostatic copy?

Mr. KENNEDY. This is a photostatic copy. Here is the Columbians card [indicating].

Mr. POWELL. What was your name in the Columbians? Was it John Perkins?

Mr. KENNEDY. John Perkins.

Mr. POWELL. Thank you very much.

I understand that the Ku Klux Klan, when the FEPC was before the Senate, circularized a letter to certain Members of Congress and for some unknown reason gave them a dollar in the letter.

Mr. KENNEDY. That is correct.

Mr. POWELL. Will you explain that to us?

Mr. KENNEDY. Yes. Grand Dragon Samuel Green, who is the national head of the Klan, has usurped the office of imperial wizard. He is acting as the grand dragon. In his klavern No. 1 he issued an edict—and when the dragon calls upon you, you are expected to do it, no matter what it is that he is calling for—he issued an edict for all klansmen to write the filibusterers who were filibustering at that time against the second FEPC bill, and he suggested that the klansmen enclose dollar bills as a token of their support. They were encouraging the filibuster to continue.

Mr. POWELL. Did they write each Congressman, or just certain ones, or just certain Senators?

Mr. KENNEDY. The grand dragon mentioned Bilbo at the time, and several others.

Mr. POWELL. Of course, it is very remarkable that the price of buying a Member's vote was a dollar bill.

Mr. KENNEDY. As he put it, it was to be a token of support.

I might add in this connection that on March 7 of this year, at the time the filibuster was going on against limiting cloture in order that civil rights legislation might not be introduced and acted upon, Grand Klaliff Ransome, who was officiating in Atlanta Klan, No. 1, in the absence of the grand dragon, he praised the filibusterers. These instructions went out to klaverns all over the country, not just this official klavern. He went on to express his confidence in what you might call the Dixie coalition in defeating civil rights legislation and the civil rights program.

Again the following week Grand Dragon Green had returned—this is March 14—and Green again urged a writing of the letters following up this other item, calling upon the filibusterers to carry on and defeat civil rights at all costs, saying the Klan was behind them 100 percent, and to defeat it in any way that it had to be defeated.

Mr. POWELL. You, perhaps, on the basis of your association and membership with the Ku Klux Klan, know definitely it was part of the Klan's program to defeat FEPC, and that it used every power it had in every way it could, through letter writing, to try to influence Members of this Congress who were trying to defeat FEPC through filibustering?

Mr. KENNEDY. It is worse than that, even. When I first made contact with the Klan I discovered that the No. 1 postwar job of the Klan, that it had undertaken for itself, was the defeat of the civil rights legislation, and particularly FEPC. That has been the red flag, if you please, or the battle cry or the rallying bugaboo that they have held up and inflated in order to attract members. There is scarcely a Klan meeting in any part of the country in which FEPC is not attacked from week to week. This is true not only of the Klan but of a great number of similar organizations. It was true of the Columbians, it was true of the American Gentile Army, which I also joined, the Anti-Jewish Party, and numerous hate sheets which are published in the South. All had headlined the FEPC as something to become excited about or to be against.

Mr. POWELL. Yet the surprising thing is that we get an outstanding legislative representative such as Lewis Hines of the American Federation of Labor and he gives us specific instances of places such as Anniston, Ala., and Mobile, Ala., where Negro and white workers have, in the past 3 years, actually come together, and the white workers have fought for the rights of Negroes, they have mixed locals, and they are working together.

In one case, in Anniston, Ala., the white workers were getting 90 cents an hour and the Negro workers were getting 45 cents an hour. The white workers went on strike and insisted that the Negroes be raised to their rates of pay, and the result was that the Negroes and whites in that particular plant now get \$1.35 an hour, the same wage for whites and Negroes.

Mr. KENNEDY. That has certainly been my experience. During the decade since I became of age in the South I have divided my time equally between working for unions and against such things as the Klan. In the course of that time I have seen a great deal of just that sort of thing. I recall a strike, for example, in Chattanooga, Tenn., a couple of years ago. It was a furniture workers' union. They were builders of caskets, and there was considerable prejudice inside the plant at the time of the strike, but by the time the strike was over the prejudice had vanished. The Negroes turned out beyond the call of duty, so to speak, in terms of doing picket duty, keeping bonfires burning at night, keeping the coffee boiling, and before the strike was over the whites and Negroes were getting along together pretty well.

Mr. POWELL. Would you be willing to repeat what you have said under oath?

Mr. KENNEDY. Everything I said I will say under oath; certainly.

Mr. POWELL. I am going to suggest to the House Un-American Activities Committee that they call you before them, because it seems to me that definitely you have been a member of subversive organizations. When you bring up the fact that the Ku Klux Klan is against the President's civil-rights platform, and even has gone so far as to try to influence Members of this Congress, both Senators and Congressmen, I think it is something that the House Un-American Activities Committee should investigate, and if they do not, they are derelict in their duty.

Mr. KENNEDY. As a matter of fact, Congressman, I have volunteered a Klan investigation on a silver platter, so to speak, consisting of four or five cabinet drawers full of documentary material, some of which

I brought with me this morning, express prepaid, and to give testimony, if they desired, as to my experiences inside the Klan, specifically with reference to the Klan's subversion of the fourteenth and fifteenth amendments; the civil rights Federal statutes, and a good many other things.

Mr. POWELL. Whom did you volunteer that to?

Mr. KENNEDY. This was at the time that Mr. Thomas was chairman of the committee. This was in a letter to Thomas.

Mr. POWELL. Did he reply?

Mr. KENNEDY. For 3 months I had no reply. I was passing through town and I dropped into the committee's office and volunteered this material, and I was told someone would get in touch with me.

Mr. POWELL. You don't recall whom you saw?

Mr. KENNEDY. Mr. Stripling, the chief investigator, no longer with the committee.

Mr. POWELL. You never received a reply?

Mr. KENNEDY. After I dropped into the office I did receive a reply.

Mr. POWELL. What did the reply say?

Mr. KENNEDY. It said, "We are interested and we will get in touch with you," as I recall.

Mr. POWELL. And they haven't gotten in touch with you as yet?

Mr. KENNEDY. No; I am still waiting.

Mr. POWELL. When was that?

Mr. KENNEDY. That was in the summer of 1947.

Mr. POWELL. Two years ago?

Mr. KENNEDY. Yes. I would like to say a word, if I may, about the hate sheets in the South, in addition to the organized manifestation of hate, and I would like to tie further these organizations, as well as the publications, into the FEPC, as I see it.

There is a publication called the Southern Outlook, printed, it says, in Clanton, Ala., but it actually has Birmingham on it.

I applied for a job with that paper, and giving Talmadge as a reference, I was given the job. I was taken in tow, so to speak, by the national advertising manager, who had a large hotel suite in Birmingham. This man's name was Nelson Sparks, a former publicist for Huey Long. He was going to bring me into this hate business. To begin with, he pulled out his financial record showing his own personal sales for the previous month, and the totals which he showed me came to \$3,400. This was in payments of subscriptions of \$2 each. Of this \$3,400 he kept half personally. That was \$1,700 for the month's work, all done by telephone. He assured me I could earn still more in Georgia where, he said, there were more anti-Communist employers that were willing to pay for hate, to break up unions.

To further verify the good business we were in, he pulled out some checks, including one check for \$200 from Mr. Paul Redman, who is president of the Alabama Mills, which is a large textile plant employing scores of thousands of workers.

He said Mr. Redman had made similar contributions at frequent intervals every week or so, and that this was the first check he had received. In the past he had received merely handfuls of \$20 bills. I was shown other checks. It was obvious that the so-called big mules in Birmingham were financing this paper.

Mr. POWELL. That is what they call the big-business men?

Mr. KENNEDY. Yes. He proceeded to make some sample telephone calls for me. After getting some of the larger, the bigger mules, on

his side he would call up mostly jackasses. He would call them in my presence, to show me how to do this thing, and would rattle off the names of these tycoons, and explain that the thing was out to preserve free enterprise, and all that sort of thing, having sent sample copies in advance to these big mules, making it perfectly clear that this was a hate sheet employing not only anti-Negroism but anti-Semitism and anti-Catholicism.

Mr. POWELL. They all go together, don't they, the anti-Negro, anti-Jewish, and anti-Catholic?

Mr. KENNEDY. Almost always. The typical Southern Outlook headline read "FEPC—Devil's Workshop—150,000,000 White Americans Enslaved," and some more of that sort of thing, with references to gentiles down below.

He would call these industrialists and say, "We are going to send this thing to men behind the plow-handles and behind the workbench. You can send us your employees' mailing list, if you like. On the other hand, if you haven't any such list, if your employees are already getting this, we still need help. We have lists of our own to whom we will send this paper free, the slip saying it comes from a friend. How much do you want to put into this thing?"

And he would send a boy who would pick up the checks.

Mr. POWELL. You mean on the basis of campaigning against the FEPC the Southern Outlook would get money from certain big businessmen?

Mr. KENNEDY. That is correct. He mentioned FEPC in his telephone conversations, that was general, mixing it up with free enterprise and "southern way of life," and that sort of thing. These men were all sent sample copies marked "Personal attention."

Mr. BURKE. Might I interpose a question?

Mr. POWELL. Sure.

Mr. BURKE. At intervals there is delivered by mail to my office a hate sheet, a pretty filthy thing about this size [indicating], called, I believe, the White Horse. Have you ever heard of that one,

Mr. KENNEDY. Yes, definitely. The White Horse is published in Atlanta. I dropped in to see the publisher on one occasion. I came well recommended. This paper, as you are aware, specializes in anti-Catholic propaganda.

Mr. BURKE. Maybe that is why they sent it to me.

Mr. POWELL. I don't know what you mean by that now.

Mr. KENNEDY. At any rate I recall a White Horse headline, volume 1, No. 1, I believe, which said, "Dead or alive, Hitler was a full-fledged Roman Catholic." That is the sort of thing they headlined. That is extremely vicious.

I had been with the gentleman no more than an hour when he was putting me on the back. I don't know why, but maybe because I looked like a Fascist, perhaps. I don't know what it is, but I hope not. Anyway, he said that his heart wasn't so good and if I would come and learn this anti-Catholic business he would will the "White Horse" to me.

Another similar paper is the Militant Bible, which has a Bible on the masthead, which says, "The truth will make you free."

Mr. POWELL. I get that.

Mr. KENNEDY. Quite a number of them are sent free to Congressmen and Senators.

Mr. POWELL. Most Congressmen get all of these, especially do they get Gerald Smith's Cross and Sword.

Mr. KENNEDY. Cross and Flag. I dropped the editor a letter saying we had union trouble and I would need some help from him, and I received a reply saying, "Just send your employees' mailing list and check and we will do the rest," which I turned over to the NLRB.

Militant Truth does the same sort of thing. It takes its text from the Bible in which it says, "Be ye not unequally yoked together with unbelievers." Then he proceeds to list in the adjoining column the Jewish and Italian names of the officers of the Textile Workers of America—CIO. This is supposed to prove that no gentile Anglo-Saxon worker should join a union with Jewish or Italian officials, and of course it indulges in the other things also.

The anti-Negro is the stock in trade.

I have an exhibit or two on the Klan which I would like to show. This is a visual demonstration that the Klan is not just a Georgia affair. This, as you see, is the New Jersey Klan [exhibiting a banner].

Mr. POWELL. You did not steal this, did you?

Mr. KENNEDY. I paid \$15 for it.

Mr. POWELL. It looks almost medieval, doesn't it?

Mr. KENNEDY. Yes.

Mr. POWELL. What does that mean?

Mr. KENNEDY. KOIE, and that is the Knights of Invisible Empire.

Mr. POWELL. Hudson County?

Mr. KENNEDY. Hudson County.

Mr. POWELL. What State?

Mr. KENNEDY. New Jersey.

Mr. POWELL. How recent is this?

Mr. KENNEDY. This is in great demand by a fellow by the name of Nelson Davies who is the grand dragon of the New Jersey realm.

Mr. POWELL. You mean the Klan is active now in New Jersey?

Mr. KENNEDY. The Klan is active now in various parts of New Jersey.

Mr. POWELL. By the way, Mr. Kennedy, I know you have to leave town. Would you give me in confidence your address and phone number?

Mr. KENNEDY. Yes.

Mr. POWELL. This committee hasn't any money appropriated for it, but I would like to have you come back next week, maybe before the full committee, and give us more of this very interesting and damaging testimony, and I will be happy to see that your expenses are defrayed by the members of the committee.

Mr. KENNEDY. That is very gratifying. I have a good deal that I would like to say, and I think it is very much in point, in relation to FEPC. I spent some time with this fellow Thurman Yellow, called the Father Coughlin of the South sometimes.

Mr. POWELL. Did you work with him?

Mr. KENNEDY. I worked with him for some time, yes. I found he had organized an organization called the Union for Christian Crusaders, of which I became a member. I was pretty busy in the South. This certainly is not only a southern problem. I feel very much at home everywhere I go. I approached Father Thurman Yellow as a Klansman and got a very warm reception.

As a matter of fact, he commissioned me, so to speak, to conduct a survey of the pawnshops of the South, to determine the extent to which Negroes were purchasing weapons for an antiwhite uprising.

Mr. POWELL. What did you find?

Mr. KENNEDY. I never conducted such a survey. I think it is pertinent in terms of showing the manner in which prejudice can affect not only one group but all groups there. It is very much like dope.

I joined, too, the Columbians, the Homer Loomis Juniors.

Mr. POWELL. Under what organizational name?

Mr. KENNEDY. I am currently serving as consultant to the Nonsectarian Anti-Nazi League, which is in the state of investigation at the moment, and to say much of anything about it now would endanger the investigation.

Mr. POWELL. I knew you did some of this investigation. I would like you to come back and talk to us behind closed doors about it.

Mr. KENNEDY. I would like that very much.

I would like to say a word, if I may, about the court decision in the Thurman Yellow case, having seen him in action for so long. I personally cannot see how racial and religious hate-mongering can serve any legitimate function in a democratic society.

It seems to me that the very least we can do, if we are going to tolerate the free expression of such hatred, the least we can do is legislate against the practice of discrimination. Expression is one thing and practice of discrimination is something else again, and it seems to me altogether fitting that we legislate against the practice of discrimination. It is a matter of announcing to the world, in effect, that we are not only not going to tolerate Fascistic expression, but the question now arises, are we going to tolerate the practice of it? I think the answer to that should very definitely be "No."

Now as to the question of why do men hate, I am not a trained anthropologist, or anything of that sort, or a psychologist, but on the basis of my experience, being injected with this from the cradle up until now, I would say that apparently there is money in it. There is a misapprehension, at least, that there is money in it, in practicing discrimination, otherwise I don't see how you would have organizations like the Georgia Power Co. and the Coca-Cola Co. financing the campaigns and advertising in the publications of men like Eugene Talmadge, who, of course, father and son, Eugene and now Governor Herman Talmadge, have continued, through this paper, the Statesman, to employ a most flagrant sort of race hatred.

The Talmadges have always made a point of not saying "Jew" but instead saying the "Rosenwald crowd."

Mr. POWELL. No one has done more for the education of the Negro and white in the South than the Rosenwald crowd.

Mr. KENNEDY. That is certainly correct.

Mr. POWELL. He means they don't like education in the South.

Mr. KENNEDY. That is right. I would like to submit as an exhibit a cartoon which appeared in Talmadge's Statesman. I can supply the date. It caricatures the FEPC in the South. It has a white gentleman saying, "But—M'am," and a Negro woman supervisor saying, "Don't M'am me! You's fired!"

Then it has a Negro supervisor, or special officer, dictating to a white secretary. The Negro special officer is saying, "Period—pari-

giraffe—I very much like a transfer back to Washington, as it appears Eugene Talmadge don't admire me none!"

That is the sort of ridiculous and vicious thing that has been used to inflame some white southerners.

Mr. POWELL. Without objection the cartoon will be received as a reference exhibit.

Mr. KENNEDY. I would like to say further in connection with the Klan, that I found the same thing to be true of the Ku Klux Klan in terms of the sources of its finances. Specifically, in the case of the Macon, Ga., and Porterdale, Ga., Klans, the Bibb Manufacturing Co., the largest of the chain, was recently cited, last month, by the NLRB for subsidizing a hate sheet called the *Trumpet*, also published in Columbus.

The publisher of the *Trumpet* is Parson Jackson, or "Parson Jack," as he calls himself. He happens also to be the imperial wizard, as he calls himself, of the Original Southern Klans, Inc. This is a splinter group that broke away from the Association of Georgia Klans.

I would like to offer also as an exhibit a typical Parson Jack handbill. It contains both the swastika, the hammer and sickle, and the star of Zion, all in one square.

Mr. POWELL. Mr. Leo Charne, who testified just before you, a top economist of this Nation, having reorganized the fiscal and tax policy of Japan, pointed out clearly and specifically there is local official anti-Semitism in Soviet Russia, and yet to confuse the issue, to find that eternal scapegoat, we find the Jewish people always linked with the hammer and sickle.

Mr. KENNEDY. I have found this association of the Jew with communism, for instance, being the secondary stock in trade of all these hate groups that I have been working with. All of these things are labeled, "Foreignism." It says:

Foreignism must go—America for Americans! The white working people must fight to help themselves. They must learn to vote and take the country out of the hands of grafting politicians. Learn the truth about the KKK and the Columbians. The Baptist Tabernacle.

Mr. POWELL. This was sponsored by the Bibb Manufacturing Co.?

Mr. KENNEDY. Well, the point there is that the Bibb Manufacturing Co. was cited about a month ago by the NLRB for having subsidized Parson Jack's hate sheet, the *Trumpet*. The *Trumpet* is very much like the *Outlook* in every respect, for which the company had paid.

Mr. POWELL. The handbill also will be received as a reference exhibit.

Mr. KENNEDY. Beyond that I have here, which I am releasing for the first time, the handwritten membership roll in the handwriting of the Kleagrap, or the secretary of the Porterdale Klan of the Ku Klux Klan. This is the Klan membership roll. Porterdale, by the way, is a company-incorporated mill village, that is, everything in it is owned by the Bibb Manufacturing Co., including the mayor, the chief of police, and everyone else is employed and paid by the Bibb Manufacturing Co. This handwritten list identifies the members not only in terms of their municipal offices which they hold, but also in terms of their Klan offices.

Mr. POWELL. How recent is this? What year?

Mr. KENNEDY. This list was current in the spring of 1947.

The saying, "Once a Klansman always a Klansman" was borne out there.

For example, I find first Mr. Leroy Birlen who is listed as a private cop, which means he is a company cop. We have Mr. Grady Denton who is listed as sheriff, and Mr. A. M. Campbell, who is a State representative in the Georgia legislature, Mr. E. L. Digley, a policeman.

Mr. POWELL. I would not like you to go further with this now. I would like you to save that until we have a full committee meeting on this.

Mr. KENNEDY. Very well.

Mr. POWELL. You are very definitely showing that the FEPC is opposed by the Klan, which, in turn, is backed up by some of the big-business men.

Mr. KENNEDY. That is correct, as some witnesses have testified. Of course, the number that don't discriminate are legion.

Mr. POWELL. The fact is we have a municipal body like the Atlanta City Council who voted to take the Klan members off its sheets by a vote of the council; is that correct?

Mr. KENNEDY. That is right, by a unanimous vote, despite terrific pressure by the Klan.

Mr. POWELL. That shows the Klan does not in any way represent the majority of the people. How many white people, would you say, roughly, in the State of Georgia, belong to the Klan?

Mr. KENNEDY. Unfortunately, the Klan is growing. The Governor of Georgia is Herman Talmadge. Herman Talmadge was the principal speaker at the Grand Dragon Green birthday party about 2 years ago, before he became Governor. He eulogized the grand dragon and said the Klan was the type of organization which would save America for Americans.

Mr. POWELL. In your opinion, is fascism and hate-mongering on the upswing?

Mr. KENNEDY. It definitely is. I have on hand an application for reinstatement in the Klan which is labeled "Association of Georgia Klans," but in rubber stamp immediately above that it says, "Indiana Division of the Association of Georgia Klans."

This thing has since the war rebuilt itself in at least 20 States in this country.

Mr. POWELL. I have read your book, and this is the first time I met you. I would like to spend some time with you on your testimony, because it is so very important, and I would like to schedule it for a day when we have full time to talk openly, and then whatever you may have of a private nature we can talk about privately. In the meantime I am going to suggest to some of my friends in the Un-American Activities Committee—and I do have friends now in the Un-American Activities Committee, believe it or not, Congressman McSweeney and others—I am going to suggest that you be brought before them, because you are willing to repeat everything you said under oath, and you have the documents there.

Mr. KENNEDY. Yes.

Mr. POWELL. I think it is within the province of this committee to go into your testimony, because it is definitely linked up with the drive against FEPC.

Mr. KENNEDY. These hate publications are, as I say, financed by this handful of union-busting employers for the most part. The stake which they think they have in it is strictly in the matter of feeling that only by preserving the racial wage differential in the South they are able to preserve the regional wage differential. They keep not only Negro wages down but they keep white wages down.

We have white men, or Klansmen even, cutting their own throats and not knowing it, or knowing it and not knowing why they are doing it.

Mr. POWELL. That is what I said the other day during Mr. Hines' testimony. I said as long as Negroes are kept as economic slaves in the South the white worker must be a semislave. The proof of it is that in Anniston, Ala., where Negroes got 45 cents an hour and the whites got 90 cents an hour, but when they go together both got \$1.35 an hour.

Is it all right with you if we suspend your testimony now and bring you back next week, or the week after?

Mr. KENNEDY. Yes.

Mr. POWELL. I appreciate your staying over for this morning.

At this time the chairman would like to insert in the record a letter from Mr. Oscar R. Ewing, of the Federal Security Agency. He has been ill for some time, but he has assured us that he will be here to testify.

Without objection, we will put Mr. Ewing's letter in the record. (The letter referred to is as follows:)

FEDERAL SECURITY AGENCY,
Washington 25, D. C., May 19, 1949.

HON. ADAM O. POWELL, JR.,
Chairman, Subcommittee on Fair Employment Practice,
Committee on Education and Labor,
House of Representatives, Washington 25, D. C.

DEAR MR. CHAIRMAN: On behalf of the Federal Security Agency, I should like to add my voice in endorsement of the principles and objectives of H. R. 4453, a bill to prohibit discrimination in employment because of race, color, religion, or national origin.

This is not a partisan measure. Both major political parties are committed to its purposes. The need for it has been demonstrated in the Report of the President's Committee on Civil Rights, in voluminous testimony before congressional committees, and in various special studies of the subject. The President has repeatedly urged its enactment.

This agency has a strong interest in the matter because, aside from the moral and political questions involved, this bill deals directly with one of the most important phases of the problem of conserving human resources, which is the basic purpose of the Federal Security Agency. Every step we take in the direction of assuring to all of our people true equality of opportunity, is a contribution to that fundamental objective of this Agency.

Our programs in the fields of social insurance, welfare, health, and education are all related to that central purpose. Particularly is this true as respects our employment service programs—our system of public employment offices, the Federal Veterans' Placement Service, and the Farm Placement Service. But all of these are severely limited in their effectiveness wherever discrimination on grounds of race, color, religion, or national origin is allowed to circumscribe the rights guaranteed by the Constitution to all citizens. To the extent that such barriers to equal opportunity can be eliminated through such legislation as is contemplated here, we have the opportunity to make a really significant contribution to the expansion of our national productivity and the preservation of our moral strength.

I should like to single out for special commendation that feature of the bill which stresses "informal methods of conference, conciliation, and persuasion" to induce compliance with the act, and which permits resort to its legal sanctions

only in the last extremity. All experience gives us reason to believe that, while the existence of punitive power may in some few cases be a necessary arm of persuasion, the use of sanctions except in extreme instances of wilful violation will be neither necessary nor desirable.

In this connection, it is pertinent to point out that the Fair Employment Practice Committee which functioned during the war under Executive order "had no enforcement power of its own; and no recourse to the courts," and that its effectiveness, which was substantial, "was due almost entirely to its success as a mediation body in persuading a union or employer to revise the particular policy or practice complained of." (Report of Committee on Civil Rights, p. 61.) As the President said in accepting the resignation of that Committee's members:

"The degree of effectiveness which the Fair Employment Practice Committee was able to attain has shown once and for all that it is possible to equalize job opportunity by governmental action, and thus eventually to eliminate the influence of prejudice in the field of employment."

Sincerely yours,

OSCAR R. EWING, *Administrator.*

Mr. BURKE. I was very much interested in the one statement you made about the discipline in those various organizations—the iron-clad discipline—and that is parallel with and equal to the party discipline in any Communist Party. In fact, their make-up and even their objectives are so closely allied, or so closely identified, it is almost impossible, when you figure the net results, to know just where the difference exists.

Mr. KENNEDY. These people, of course, are always very much upset about communism, but actually in the South I do not see too much of it. They are so highly inflated by these organizations that if I came in contact with it, I did not know it.

Mr. BURKE. So far as their hatred of communism is concerned, perhaps the only reason they hate it is because communism is a rival party dedicated to what may be a little different form of totalitarianism than they practice.

Mr. KENNEDY. The Klan looks on the NAACP not only as communistic but as revolutionary. The life of the secretary isn't too secure, particularly his economic life. The same thing may be said about Republicans in the community.

Mr. POWELL. You mean a Republican is the same as a Communist in the South?

Mr. KENNEDY. That is the way it manifests itself in the South. A man who confesses that he is a Republican in some of the southern counties may well be out of a job, or of a farm, if he is a tenant farmer, or whatever he is.

Mr. POWELL. Thank you very much, Mr. Kennedy.

The Very Reverend Monsignor John J. McClafferty.

TESTIMONY OF MSGR. JOHN J. McCLAFFERTY, REPRESENTING THE CATHOLIC INTERRACIAL COUNCIL OF WASHINGTON

Monsignor McCLAFFERTY. Honorable chairman and members of the committee: I am Monsignor John J. McClafferty, priest of the Archdiocese of New York, member of the faculty of the Catholic University of America, and I represent the Catholic Interracial Council of Washington.

For this opportunity to appear before you I am grateful.

Gentlemen, before I present my formal statement in support of this bill, H. R. 4453, I should like to call attention to one provision of the

proposed legislation which may affect unfavorably a private employment agency or placement service under religious auspices not organized for private profit.

I refer to section 5, subdivision (a), paragraph (2).

According to this section, as I construe it, for an employer to utilize the placement service of such an agency may be an unlawful employment practice for such employer, because such placement service may serve either exclusively or primarily members of a given religious faith. I am not directing any objection in the premises toward the words "race, color, * * * or national origin."

I am confident that the drafters of the bill have not intended to prohibit or make it difficult for a placement service under religious auspices not organized for private profit to serve members of the same religious faith.

Therefore, respectfully, I urge that appropriate change be made in the proposed legislation to correct this.

Mr. POWELL. May I say I agree with you on that. I will be very happy to consider it when the committee meets in executive session, because I can see where a friend of FEPC would not do anything about it, but an enemy of FEPC might.

Monsignor McCLEFFERTY. Thank you very much, Mr. Chairman.

Now I wish to present my formal statement on behalf of the Catholic Interracial Council of Washington.

I am please to have the privilege of entering, on behalf of the council, an endorsement and approval of this important proposed legislation known as the Federal Fair Employment Practice Act, H. R. 4453.

All of us realize, gentlemen, that subjective attitudes and prejudices cannot be controlled completely and exclusively by legislative mandate. We are aware that in the complex part of human relationships, known as employment, legislation cannot be the complete and only solution.

A sound educational program and the salutary experience of members of different groups actually working together are necessary implements to the success of any legislative program in the area of socioeconomic relations.

We believe, however, that the proposed legislation would crystallize into concrete and workable expression the basic principles of the Constitution and the Bill of Rights of these United States, would provide a specific and practical forum for the recognition and enforcement of basic human rights, and would give statutory recognition to the Divine principles and mandates of the natural law which affirms the God-given dignity shared equally by every person.

This dignity is woven of the skeins of the intrinsic characteristics with which man is endowed by his Creator—an immortal soul, the faculty to reason, the ability to know truth and error, right and wrong, and the power of free will. These spiritual qualities elevate man to a level essentially above all the other wonders of the universe that we see about us. These endowments from the generous and provident Hand of Almighty God are shared equally by all men.

In addition to sharing these endowments, all men also share equally in the obligation and necessity of earning their daily bread by the sweat of their brow. This confers on all a just and fundamental right

of access to the bounty of nature and the opportunity of earning a decent livelihood for themselves and their own.

Any practice, whether it be the result of fear or prejudice, which transgresses these important rights of equality and the right to a fair opportunity to work on the basis of one's capacity and competence, is immoral. Such practice violates justice and charity—two of the most important principles in the lives of individuals and in the welfare of nations.

This measure, if justly and properly administered, should diminish or eliminate such immoral acts, and help preserve the principles of justice and charity in employment relations.

The greatest commandment of all next to that of loving God is that of loving neighbor. Our neighbor is everyone, the whole human race. This is the teaching of our Lord Jesus Christ.

However, as the Right Reverend John A. Ryan, distinguished authority on social ethics, stated before the subcommittee of the Committee on Education and Labor of the United States Senate on a similar measure in August 1944:

The Christian precept of brotherly love is not satisfied by mere well-wishing, nor benevolent emotion, nor sentimental yearning. It requires action.

Therefore, gentlemen, I on behalf of the Catholic Interracial Council, urge the passage of this bill.

May I close with the prayerful hope that all citizens approach this matter with utmost good will, undertake to carry out the principles and objectives of the bill with fairness, with friendliness, with sincere faith in American democracy, and with the humble and earnest supplication of God's help and guidance.

Mr. POWELL. Thank you, Monsignor, before these hearings close, there will not be a single religious group in our Nation of all denominations, both North and South, that will not either in person or through statements approve of the FEPC.

Monsignor McCLAFFERTY. Yes.

Mr. POWELL. How can you find justification for members of the laity of any faith opposing this bill when the moral persuasion of the religious bodies of this Nation is pointed toward definite and specific approval? Can you see how, in reason, there is anything immoral or immoral in an FEPC?

Monsignor McCLAFFERTY. I should not wish to record myself as in any way being judgmental. The morality of such action would in the end, of course, be judged by the Almighty God.

I believe that there is a great deal that remains to be done by way of education, and perhaps specifically by way of moral education, so that all the people of these United States will appreciate the moral principles that are involved and that are relevant and pertinent to the just solution of this problem.

Mr. POWELL. The truth of it is we would not need any civil-rights legislation if we had the Kingdom of God on earth.

Monsignor McCLAFFERTY. That is right. If there were realized in our society the application of the fundamental principles of justice and charity as preached by our Lord, we should not need this legislation.

Mr. POWELL. Therefore we are legislating because man has not yet seen fit to practice the Kingdom of God on earth.

Monsignor McCLAFFERTY. Yes; and as the statement of the position of the Catholic Interracial Council has expressed, a sound educational program is a necessary implement to the success of a legislative program of this kind.

Mr. POWELL. Mr. Burke?

Mr. BURKE. Monsignor, I think your statement is a very effective answer to those opponents of the bill who say that the Federal Government has no place, or has no right to adapt such legislation for the regulation of peoples' lives and business. After all, this legislation is really an implementation, on the basis of legislation, of a natural and moral law, and I think you very effectively bring that out in your statement. I would like to compliment you on that.

Monsignor McCLAFFERTY. And I believe, too, if I may personally make an observation, that the proposed Federal legislation is an implementation and supplementation of State efforts in this field, as in the States of New York, New Jersey, Massachusetts, and Connecticut, and a supplementation also of future State efforts, as other States move to meet this problem of discrimination in employment.

Mr. POWELL. Thank you ever so much.

Mr. Frank S. Loescher.

**TESTIMONY OF FRANK S. LOESCHER, EXECUTIVE DIRECTOR,
PHILADELPHIA FAIR EMPLOYMENT PRACTICE COMMISSION**

Mr. LOESCHER. Mr. Chairman, my name is Frank S. Loescher. My home is Philadelphia where I am a sociologist now on leave from Temple University. I am here today, however, as executive director of the Fair Employment Practice Commission of the city of Philadelphia. I am also here, in the time allotted Clarence E. Pickett, to testify for the American Friends Service Committee. I also represent the Friends Committee on National Legislation.

My testimony is based on my 3 years of experience from 1945 to 1948 directing the Friends Placement Service and my experience since November 1948 as director of the Philadelphia FEPC.

In 1938 the American Friends Service Committee established a program to assist new Americans to find jobs. During World War II the Quakers helped find jobs for Americans of Japanese descent who were forced to leave their west coast homes. In the fall of 1945 the committee began a special project to help Negro high school and college graduates in the greater Philadelphia area.

From 1945 to 1948 I interviewed more than 200 executives in Philadelphia businesses, industries, and other institutions, such as schools, colleges, and hospitals. The American Friends Service Committee's personnel practices enabled me to talk to employers with a knowledge that I worked for an organization which practiced what it preached.

Among the several hundred clerical and administrative employees who worked in this country and abroad were persons of all races, including Caucasian, Negro, Japanese-American, and Chinese-American, all faiths, including Protestant, Catholic, Jewish, and Buddhist, and all nationalities.

I personally talked to the presidents of banks, the personnel executives of insurance companies, the heads or managers of major department stores. In these interviews I shared the Friends Service Committee concern for employment on ability alone, irrespective of color,

religion, or ancestry. The American Friends Service Committee was prepared to recommend unusually well qualified persons for a variety of positions.

I might add there that was why we called it a placement service, because we interviewed more than 1,500 people and secured their educational background, their previous employment records, and we had seen them personally, and therefore I could talk about them, knowing whom I was recommending in seeing the employers.

Only one employer refused to see me. On the whole, employers were sympathetic. Every Philadelphia employer whom I interviewed, believed that qualified Negroes were available to handle competently a variety of jobs in his firm.

In those interviews I encountered this kind of reaction from employers. They said to me: "I would welcome a fair employment practices commission because then I would know we are all doing the same thing. Without such a law it is unfair to make me a guinea pig."

Some employers feared that they would lose efficiency in the working force, despite the evidence from firms in New Jersey, New York, Massachusetts, Connecticut, and also Philadelphia that fear of unfavorable employee reaction is largely groundless.

Some employers said that they would lose patronage, again despite the successful experience of New York, New Jersey, Massachusetts, Connecticut, and several Philadelphia employers.

The American Friends Service Committee did place a number of persons of Negro, Jewish, Czechoslovakian, Chinese, and Japanese background in industry, department stores, and social-welfare organizations. The committee has not had a single report from any of our employer clients of unfavorable employee or customer reaction.

The committee appreciated the courage of many employers who moved ahead of their competitors. These employers were setting a fine example. But over a period of time we began to ask ourselves, Why ask them to be guinea pigs? Furthermore, how long could we expect our fellow citizens of another color or religion to wait?

And so it was that the American Friends Service Committee said in its 1947 annual report:

This work has made increasingly clear the need for FEPC legislation to help melt traditional obstacles to fair employment in America. Without the backing of declared public policy, both Quaker and non-Quaker employers find it hard to free themselves from established discriminatory practices.

Thus the American Friends Committee endorsed fair-employment legislation, and I testified for the committee at a public hearing before the City Council of Philadelphia in February 1948. In March 1948 the Philadelphia City Council by a vote of 19 to 0 passed a fair-employment-practice ordinance establishing a fair-employment-practice commission.

I will just add in here—I can elaborate on it later—we have a budget for 1949 of \$50,000 and a staff of five people and an outstanding commission of members who serve without compensation.

The commission is required to seek to adjust all complaints of unfair employment practices forbidden by the ordinance and—

to formulate and carry out a comprehensive educational program designed to eliminate and prevent prejudices and discrimination based upon race, color, religion, national origin, or ancestry.

These two provisions are the heart of the Philadelphia law.

In the past year the commission has received 103 charges of discrimination against employers, labor organizations, employment agencies, and advertisers. The commission has already closed 188 charges to the satisfaction of all parties. The Philadelphia Fair Employment Practice Commission, like the commissions in other States and cities, has been able to adjust all charges by the conference method.

In our educational program we have the cooperation of the Philadelphia Chamber of Commerce, the Central Labor Union, AFL, the Industrial Union Council, CIO, the Council of Churches, the Catholic Interracial Council, the Jewish Community Relations Council, other civic organizations, and the schools and colleges.

Aside from handling charges and carrying out a broad program of education, what changes have occurred in employment opportunities since the passage of the ordinance?

During the first year of the fair-employment-practice ordinance, employment patterns in Philadelphia have broadened.

Downtown department stores now have Negro personnel employed in sales positions, as cashiers, and in the general clerical field. Prior to the passage of the ordinance only two downtown department stores employed Negroes in these positions.

Many specialty shops in the center city area are also employing Negroes in sales positions.

Chain stores have continue and expanded their employment of colored workers as sales clerks and cashiers.

The integration of Negroes in AFL and CIO unions has been stimulated.

Public utilities are integrating Negroes into departments formerly closed to them.

In at least one large insurance company Negro high-school graduates have been employed in clerical positions.

The daily newspapers, Bulletin, Inquirer, Daily News, and their advertisers, have eliminated help-wanted ads mentioning race, religion, or national origin.

The inclusion of items of race, religion, or national origin on application forms is being reduced.

The Philadelphia Fire Department has abolished segregation.

Widespread interest in fair-employment practice throughout the community is shown by the demand for literature, speakers, and individual requests for information. We mailed our new folder to 8,000 persons and have had requests for 100,000 copies; businesses distributed the folder to their employees, churches to their members, and unions to their members.

A statistical statement on over-all employment patterns in Philadelphia and on the extent to which the Philadelphia ordinance is contributing to improve policies and practices, is desirable. Such a scientific study is being planned for the fall by the Commission.

However, the school district of Philadelphia since 1941 has been collecting data by race based on the records of its employment certifying service. These records show that prior to World War II only 2.7 percent of the employment certificates were issued to Negro boys and girls 16 and 17 years of age.

According to a statement by the Philadelphia school system:

The percentage of employed youth increased steadily during the war years until 1945 when 17 percent of all 16- and 17-year-old youth working full time in Philadelphia were Negroes.

Then the employment of Negro youth began to decline. In 1947 only 5 percent of the 18,924 full-time employment certificates issued for 16- and 17-year-old youth in Philadelphia were for Negroes. This is especially pertinent since Negroes make up 17 percent of that age group.

This same statement went on to say—

We can assume from this, that when wartime pressures and manpower problems decreased, discrimination against Negroes increased.

During 1948, however, when the fair-employment-practice ordinance came into operation in Philadelphia the percentage of employment certificates issued for Negro youth 16 and 17 years of age increased.

The same trend is holding during 1949. Public-school figures indicate that in the first 3 months of 1948, 228 certificates were issued for Negro youth out of a total of 4,247, or 5 percent of the total.

In the corresponding quarter of 1949, 238 certificates were issued to Negro youth out of a total of 3,363, or 7 percent of the total. While job opportunities for Negro youth are still far below their proportion of the school population, FEPC does seem to be making the situation of Negro youth a little better.

The Philadelphia public schools also have assembled data which indicates that opportunities for Negro youth have improved not only quantitatively but qualitatively. Negro youth are being issued employment certificates for such positions as switchboard operators and in sales and clerical work. Furthermore, there is no evidence of a low ring of pay scales.

In conclusion, I would like to express an opinion about House bill 4453. I believe it can be made to work under competent, judicious administration. I say this not only on the basis of my experience in industrial relations, but also on the basis of my experiences living and teaching for 7 years in Virginia and Tennessee.

I believe that this bill wisely emphasizes the conciliatory and educational aspects of fair-employment legislation.

In Philadelphia we have found that the conciliatory and educational approach is gradually winning friends and supporters in industry and labor and the public. I believe a constructive approach can, over a period of time, achieve the same results throughout the country.

I want to thank you for giving me the opportunity to present the views of the Philadelphia Fair Employment Commission, the American Friends Service Committee, and the Friends Committee on National Legislation.

Mr. POWELL. I want to compliment you on the excellent work that the Philadelphia FEPC has done in about 11 months. What do you think is the reason why, with nearly everybody in the State politically pledged to State FEPC, the legislature continues to reject the Pennsylvania State FEPC?

Mr. LOESCHER. Well, it seems as if in Pennsylvania the Republican Party has two divisions. There is one division that is represented more or less by the Governor, and another division represented by a

group that is very close to a certain segment of the manufacturers association. I think it is the latter group that, as far as I can see, more for traditional reasons than almost any basis of logic, has opposed this.

Mr. POWELL. Yet many of the outstanding members of the manufacturers group have offices in Philadelphia.

Mr. LOESCHER. That is true. Mr. Batt of SKF was chairman of the Businessmen's Committee for State FEPC. I don't know whether some of the businessmen are not as active in some of these manufacturers' associations as they ought to be or just what is responsible for it.

Mr. POWELL. There isn't a single industrialist in New York who is opposed to it. The other day Commissioner McKenney of Massachusetts pointed out that in Boston the Boston Chamber of Commerce has gone on record for it, and the New York State Chamber of Commerce has gone on record approving it. There just does not seem to be any reason or logic against approving it.

Mr. LOESCHER. I think it is more a habit, more a pattern that has been established. Most of us resist change. However, once the legislation goes through it is really remarkable how the businessmen get worked up in being invited to come to some other community to tell how they did it. There is no reflection on what a person might have thought 10 years ago. I think particularly a person like Floyd Shannon, who is superintendent of relations at Western Electric at Kearney, N. J., he was in very great demand to tell how Western Electric went about this.

Mr. POWELL. That was one of the toughest nuts to crack.

Mr. LOESCHER. They have done a very hang-up job. I remember seeing the Metropolitan Life Insurance Co. being picketed in January 1945.

Mr. POWELL. I picketed the Metropolitan Life Insurance Co. home office in Harlem for 10 months. I saw Mr. Lincoln, the president of the Metropolitan Life Insurance Co., one afternoon and he said, "Never, never, will we employ a Negro."

I said, "Well, we are going to picket you, then."

He said, "You can't scare us," and he pulled out a check, a photo-static copy of a check for \$165,000,000. He said, "We just bought \$165,000,000 of war bonds. We take in a million dollars every day that we don't know what to do with. How can you hurt us by picketing us? You will never make us employ Negroes."

Mr. LOESCHER. I talked to Mr. Rhodes, the vice president in charge of personnel. It is a thrilling story. I wish every businessman in the United States could sit down with Mr. Rhodes and hear how they did it, and they had no problems.

I remember your interest in the activity of the bus situation in New York.

Mr. POWELL. Yes. The chairman of the Board told me, "These Irishmen on the bus company will not work with Negroes." Do you know what the Irishmen did? The next day the Irishmen of the Transport Workers Union came uptown and picketed with us against their own bus company, and in 12 days we broke the back of the bus company regarding discrimination, and today there are 10,000 Negroes working on the various transport systems in the city of New York.

Mr. LOESCHER. Everybody refers back to the PTC strike in Philadelphia, and today you get on a trolley and you don't know whether

it is going to be a man or woman operating the car, or colored or white. The same with the conductor, you don't know what the sex is going to be. Nobody pays attention to it.

Mr. POWELL. Mr. Burke?

Mr. BURKE. I have no questions.

Mr. POWELL. Thank you ever so much.

Our next witness is Mr. Herman Edelsberg of the Anti-Defamation League.

TESTIMONY OF HERMAN EDELSBERG, WASHINGTON REPRESENTATIVE, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

Mr. EDELSBERG. Mr. Chairman and gentlemen of the committee, my name is Herman Edelsberg. I am the Washington representative of the Anti-Defamation League of B'nai B'rith.

B'nai B'rith, founded in 1843, is the oldest civic organization of American Jews. It represents a membership of over 350,000 men and women and their families. The ADL was organized in 1913, as a section of B'nai B'rith, in order to cope with racial and religious prejudices in the United States.

The program developed by the league was designed to achieve the following objectives: The elimination and counteraction of defamation and discrimination against the various racial, religious, and ethnic groups which comprise our American people; the counteraction of un-American and antidemocratic activity; the advancement of good will and mutual understanding among American groups; the encouragement and translation into greater effectiveness of the ideals of American democracy.

I have been delegated by the Anti-Defamation League of B'nai B'rith to appear before you to testify in behalf of H. R. 4453, a bill intended to insure equality of job opportunity for all, regardless of race or creed. B'nai B'rith has, for a number of years recognized that its work for the implementation of our American democracy requires that it seek to attain equality of opportunity for all in every area of community activity essential to the happiness and well-being of all persons within the community.

We present this statement on behalf of the Anti-Defamation League of B'nai B'rith, not as a matter of form, not because it is the fashionably liberal thing to do, but because we are deeply and intensely concerned with the enactment of an FEPC law. We are concerned with it to defend American democracy and security, to strengthen the American economy, and to improve the mental and social health of all Americans, because we are satisfied that discrimination is almost as bad for the one who discriminates as it is for the victim of his discrimination.

Mr. POWELL. From a moral point of view I think it is worse.

Mr. EDELSBERG. Of course. Let me address myself first to two of the classic arguments used by the opponents of this bill. In the first place, they like to compare it to the prohibition law, which was notoriously ineffective. To me, that comparison is fantastic, Mr. Chairman.

We have, in the case of FEPC, a great reservoir of voluntary cooperation by the major groups in this country.

When we come here to endorse FEPC, we come at the same time to pledge the full cooperation of B'nai B'rith toward the effective and just enforcement of this act. We are sure we are joined by all the religious groups in this country, by the great trade-union groups, by veterans' groups, and many other social and civic groups.

So, in the first place, we have a vastly different situation, we have a great store of active cooperation. In the second place, there is a reservoir of general good will that this bill will tap when it becomes law. I think there are literally millions of Americans who are just waiting for a chance to say that they prefer to live by the ideals of their political and religious professions rather than by practices which fall short of those ideals.

Now in those two respects this situation is vastly different from the prohibition experiment.

We are also told by the opponents of FEPC that you cannot legislate against prejudice. The first and decisive answer to that suggestion is that the bill is not aimed at prejudice, the bill is aimed at discrimination, at overt acts which you might call the bitter fruits of prejudice.

I myself go further and suggest to you, in all earnestness, that this bill can strike at prejudice in the human heart. We all know that prejudice is not something that is God-given, it isn't innate, it isn't born in the child, it is learned, it is acquired somehow.

I say to you it is easy to learn prejudice if you ride on Jim Crow school busses or go to Jim Crow schools. Certainly a child who is born in a restricted neighborhood is born with two strikes on him, as far as his possibility of becoming a tolerant American is concerned. That child, from the earliest days of comprehension, develops the feeling that he is better than the others who are not permitted to move into his neighborhood.

So I say that if, by statute, we prevent overt discrimination, overt segregation, overt Jim Crowing, we have made it possible for all Americans to grow up in an environment in which it becomes more and more difficult to develop prejudices.

In a real sense, therefore, while this bill is directly aimed only at discrimination, it is also aimed toward eliminating prejudice itself from the human heart.

The Anti-Defamation League has done some special work in the matter of getting scientific and objective accounts of the extent of prejudice and I would like to bring to your attention and consideration some of the fruits of our research, which Doubleday has seen fit to publish as a commercial book this year, entitled "How Secure These Rights." It was written for us by Professor Ruth Weintraub of Hunter College, under the direction of our civil-rights committee, of which Mr. Jacob Grumet of New York is chairman and Mr. Arnold Forster is director.

Mr. BORKE. Is it in print?

Mr. ENGLISH. It is in print by Doubleday. It is a survey of the whole problem of discrimination and prejudice and Doubleday thought it was good enough to warrant its publication as a regular commercial book.

The campaign for democracy and against discrimination based on race or creed is one to which the Jew is no stranger. Our first participation in the struggle for the recognition of the essential dignity of

every individual was when we successfully sought to burst the bands of the European ghettos. The artificial constraints set up for Jews throughout Europe were intended to exclude them from the normal life of the community and to restrict them to a second-class status in the state.

We Jews succeeded—we thought, for all time—in breaking down the ghetto walls. But we found that the more smashing of the physical walls was only part of the job. In its stead, those who wished to restrict competition and those who could not overcome their bigoted background sought to achieve the same constraint by building economic and spiritual walls to replace the physical ones of the ghetto. Thus, for centuries, the Jew found himself excluded from certain industries and occupations. Large portions of the social life of the community were surrounded by bars erected against the Jew.

In our dynamic society there can be no standing still. The existence of economic, social, and spiritual walls operate against the victim but also against the oppressor. The oppressor is increasingly corrupted by such walls and seek in time to strengthen them by both legal and physical means. The Hitlerian hegemony in Germany showed how absolutely discrimination can corrupt the oppressor.

Unless we here in democratic America advance continually and consistently against racial and religious discrimination, we face the danger of a reversion to the brutality and ignorance of Hitlerism.

The essential basis of democracy is its affirmation of the worth and dignity of the individual. Democracy grants to every individual an equal voice in every important decision affecting the community. It affirms the right of each person to be judged by the community on the basis of his own behavior, not on the basis of such irrelevant factors as the color of his skin, his religious affiliation, his racial origin, or his ancestry.

As our understanding of democracy advanced, it became clear to us that a man who is hungry or unemployed cannot maintain his dignity. It was recognized that the right to equality of opportunity for employment was a necessary concomitant of the democratic way of life. The exclusion of members of any racial or religious group from the opportunity to obtain work for which they were qualified was seen to be a denial of the democratic rights of that group.

And the denial of democratic rights in one area threatens the denial of those same rights in all areas. Those whose rights are denied lose their faith in democracy. They are easy prey for the groups which would subvert democracy. Similarly, those who participate in the denial of such rights become contemptuous of the democratic way of life, and are also more likely to listen to the siren song of totalitarianism.

It is also noteworthy that the doctrine of the equality of man before God is fundamental to our Judeo-Christian religious philosophy. Discrimination in employment based on race or creed is, by our religious concepts, immoral and ungodly. Such discrimination can serve only to perpetuate slavery in one form or another. From the point of view of the economic health of the community, racial and religious discrimination in employment is wasteful.

Clearly, it is economically unwish to deny to the community the fullest possible use of productive skills of every individual in the commu-

nity. To compel a person who has gone through long years of costly training to qualify as a lawyer or an economist, or a teacher to go to work as an elector operator, or as a tailor, is to destroy an investment.

Nor does the foregoing exhaust the list of considerations of practical self-interest which demonstrate the need for legislation to insure equality of opportunity in employment. It has been repeatedly shown by our experts in sociology that the poverty resulting from job discrimination breeds crime, disease, and slums. The victim of discrimination is frequently also the victim of malnutrition, and hate which warps his mind and stunts his body.

Racial and religious discrimination in employment has, we have seen, resulted in compelling people to live on relief because they could not get a job even in the face of a labor shortage. It has lowered the purchasing power of large portions of the population, and has thereby lowered the standard of living of the entire community.

Hundreds of businessmen have recognized the validity of the point I have just made. Hence, many of them have indicated their support for FEP legislation. This is particularly true of the businessmen who have had experience in the operation of such legislation, both under the old Federal FEPC and under the few State FEP acts now on the books.

The benefits we shall derive from the enactment of a bill such as H. R. 4453 extend beyond our shores. We are presently engaged in a world ideological conflict with totalitarianism. Our country has had to take the leadership of those forces in the world which are fighting for democracy. This battle cannot be won by guns or food. The magnificent effort embodied in the airlift to Berlin was but a stopgap. The battle is one of ideologies, and we will win it only if we win the minds of people all over the world.

So long as we permit a substantial discrepancy to exist between our preachments of democracy and our actual practices here in the United States, the people of the world will find it hard to trust us and to accept the doctrines we preach. So long as we continue to deny fair treatment to large portions of our population because of their race or religion, we cannot expect the peoples of Asia, Africa, and Europe to believe in our good faith.

Just the other day the New York Times showed how our democratic shortcomings are being made capital of beyond the iron curtain and in the cockpit of western Europe. A parade in Czechoslovakia made much of Klan oppression of American Negroes. We must remove this ideological weapon from the hands of our opponents.

Now that the Human Rights Commission has reported and has embodied in the UN Declaration of Human Rights a provision that "everyone has the right to work," and that "everyone without any discrimination has the right to equal pay for equal work," it becomes necessary for us to put up or shut up. We stand before the bar of world public opinion engaged in a controversy which will, if we succeed, chart a course of peace and prosperity for the world.

Let us not be found lacking. Let us proceed with our present campaign to eradicate racial and religious discrimination in this country. Only thus can we insure peace, prosperity, and democracy for our country and for all the peoples of the world.

Repeatedly, the opponents of fair-employment-practice legislation have denied the need for such legislation. They have argued that there is little or no discrimination in employment. They have pointed to the unexcelled standard of living of the working people of our country. It therefore behooves us to examine the facts. In presenting the facts that the Anti-Defamation League found, we shall, naturally, speak most frequently of instances of job discrimination against Jews.

Let us make clear at the outset, that we know and could prove, had we the time and the resources, that many other racial and religious groups suffer from job discrimination at least as badly as does the Jewish group. Some of the data we wish to call to the attention of your committee deal with discrimination against various racial and religious groups. Other data are limited to discrimination against Jews.

On two Sundays in the fall of 1948, the ADL examined the employment-advertisement sections of 404 leading newspapers in 40 States and the District of Columbia. The newspapers examined were those published in all cities of the country with a population of more than 100,000. The purpose of this examination was to ascertain the amount of employment discrimination evidenced by employment advertisements for the particular dates.

May I say now we know, from bitter experience, that the amount of discrimination you find recorded publicly in advertisements is only a small fraction of the actual discrimination you encounter when you apply for the job. Business firms understand the discrimination they practice need not be reported in the newspaper advertising columns.

In all, 97,088 advertisements were read for these two Sundays. A total of 3,494 ads, or 3.6 percent of the total number published on these two Sundays carried language which was potentially discriminatory. Of the discriminatory phraseology of the ads, 90.7 percent dealt with questions of race; 3.9 percent with religion, 3.1 percent with nationality. A total of 2.3 percent were classified as discriminatory because they asked for miscellaneous information which was potentially discriminatory.

It is not surprising that the highest instance of discriminatory advertisements was found in the South, where 8.3 percent of all ads examined requested data on either race, religion, or nationality. In the Midwest, 3.4 percent of all the ads examined contained discriminatory phraseology. In the Northwest, 3.1 percent was found objectionable, and in the Far West only 2.8 percent contained discriminatory matter.

A local study made by the Los Angeles office of the ADL in July 1945, revealed that of the total help-wanted ads which appeared in the five Los Angeles metropolitan dailies during that month, 480, or 3.5 percent specified the prospective employee's race, 274 or 2.3 percent asked for or specified his nationality, and 15, or 0.2 percent inquired about religion.

During September 1948, a study carried on by the league showed that discriminatory job orders were accepted by private employment agencies in at least 55 large cities throughout the United States.

Of 150 job orders which were placed for a white Protestant stenographer, 138 were accepted for placement without any comment. Eight of the 13 refusals came from employment agencies in the Northeast

portions of the country. It is noteworthy that four of the States in that area have State FEPC laws barring employment discrimination.

For the most part private employment agencies take the position that it is not their duty to change employment mores, and that it is their function to satisfy an employer so that he will continue to use their agency for future business. One private employment agency interviewed put it thus:

I take colored and Jewish applications, but I do not send them out unless there is a specific request. I cannot place a colored girl and I have trouble enough placing a Jewish one.

Another employment interviewer queried in the same investigation made the following statement of the rationale and the process of discrimination as usually employed in the agencies:

Employment agencies cater to the needs of employers—he is the one who generally pays the fees and he is the one to be satisfied. While a person may have the various technical qualifications for filling a job, race, religion, and nationality are always taken into consideration before the person is even sent out for a job interview.

When the person is Jewish, you go to another phone and call the employer, using a fictitious Jewish-sounding name—Goldberg, et cetera—thereby giving the employer an opportunity to say that they are not interested in seeing that person. You do not jeopardize an account—possibly 10 percent of the initial job orders we get from new employers specifically state in advance that Nordics only are desired. Yet, I would say that better than 50 percent of the possible applicants for these jobs are discriminated against later because of religion.

Nor are discriminatory job placements limited to private agencies. Some public employment offices are also guilty of discrimination. During September 1948, a spot check was made of public employment agencies in five large American cities. Half of these offices accepted discriminatory job orders without any question.

As one midwestern public employment official stated—

The advantage of knowing what the employer wanted is that this would avoid embarrassment by the applicant who may be refused employment because he does not come within the discriminatory limitations of the employer.

There is also evidence that some employment agencies, in addition to accepting discriminatory job orders, code the application form for race, and permit interviewers to note on application cards such comments as "typical Jewish aggressive," "100 percent American type."

In some public employment offices, when an employer places a discriminatory job order over the phone, the word "screen" is put on the order to indicate that a certain type of compliance is expected when the order is to be filled.

Another area in which Jews have been the victims of widespread employment discrimination is in the professions of accounting, engineering, and law. During the past year, the B'nai B'rith Vocational Service Bureau made three studies of such discrimination with respect to students graduated from schools of accounting, engineering, and law. The technique used was to obtain fairly complete interviews with administrators and professors in leading professional schools in each of these fields.

In the accounting study, 50 deans, directors, professors, or placement officers were interviewed at length. Nine out of ten accounting school administrators and professors reported the existence of some discrimination by employers in hiring young accounting graduates. Discrimination against Jews seems to be particularly noticeable in

the field of public accounting. The hiring policies of the big, nationally-known accounting firms is described in terms such as these: "I don't think there is much opportunity for a Jew to get a job with a national public accounting firm. There are a few mixed firms of national scope, but it is very tough for a Jew to make a career with a national accounting firm."

Or again, "As far as Jewish students are concerned, it is an almost impossible task for them to get a job in a public accounting firm." The professors seek to explain the public accounting firms' discriminatory policy by blaming it on the prejudice of the firm's clients: "Since a public accountant is working most of the time in a client's office rather than his own, he has, they say, to be a *persona grata* to businessmen in general."

These findings were confirmed in another study recently completed in Cincinnati by the Jewish Vocational Service. This revealed that, of 286 accountants employed by 15 large public accounting firms in that city, only 3 were Jewish. When the heads of these firms were interviewed, they gave various explanations for the discriminatory pattern which their employment policies seemed to reflect. About one half of them said the universities and other schools were not referring Jewish students to them. Several of the firms said that Jews are employed in their New York and Philadelphia offices only, and cited this as evidence of lack of prejudice.

For the B'nai B'rith engineering survey, interviews were held in 23 engineering schools in different sections of the United States. On each campus, an attempt was made to interview the senior professor in each of the five engineering fields. Most of the professors interviewed admitted immediately that it is harder to place a Jewish graduate from their engineering schools than a gentile.

The engineering survey reaches the following conclusions: "Today almost any qualified engineering graduate has job opportunities, but the opportunities for the average Jew are less numerous and less attractive than those for the average gentile. In the future, if the situation become tight again, Jews, as a marginal group, will be among the first to go without job offers."

As one professor of mechanical engineering reported:

I know that discrimination against Jews is pretty bad. I am on a committee that is composed mostly of engineers in various companies, and in committee meetings many have told me that the reason they have not come to see us—for the purpose of hiring students—is that they don't like our kind of students. You see, we have a lot of Jewish students here. These employers say that, if we sent them the kind of applicants they want, they would be perfectly willing to interview them. But the others—the kind they do not want—no.

For the law survey, 50 interviews of law school deans or professors were conducted in 33 institutions. This study finds "that both Negro and Jewish law students are discriminated against in job placement. While two out of three law professors aver that they can, in the present market, place almost anybody," it is generally admitted that "the chance of Negroes or Jews getting the really top jobs are definitely poorer than those of white gentiles."

Two quotations from frank administrators point up the foregoing conclusions: "Yes," frankly, I would say that you very definitely have a big problem in placing graduates of minority groups. There are a great many firms who send in requests for recommendations

and who qualify their requests by stating that they do not want any other than "the nonminority group member to apply."

A second law professor said, "The second roadblock that I would like to speak of is the rampant anti-Semitism that is prevalent in the law profession."

There is also evidence of widespread discrimination in the banking field. The Bureau of Jewish Employment Problems in Chicago made a study of employment opportunities in banks in that city.

Of the 72 banks with a probable total of 20,000 employees, the present Jewish employment is under 300. This study estimates that the probable extent of Jewish employment which can be expected under FEPC is 2,000. Fifteen of the forty-three banks report employment of 22 nonwhites, all in service or custodial categories. Employment agencies have indicated in private conversations that job orders from banks severely restrict the placement of Jewish employees.

In the last 9-year period the Jewish Vocational Service communicated with 21 banks in this city a total of 121 times; it obtained 14 placements of which 10 were in 1 bank which has Jewish ownership.

Some question has been raised by opponents of Federal fair employment practice legislation as to the need for a Federal enactment in this field. It has been pointed out that a number of States have such laws. The question has been asked why the problem should not be left for the States to solve.

Let me point out first that all the evidence demonstrates the discrimination in employment is an evil which appears throughout the country and throughout our economy. The factual data I have already submitted demonstrates the national extent of the problem.

In addition, our experience during the war made it clear that our economy cannot be compartmentalized by States. Every economic action in one part of the country results in some kind of economic reaction in other parts of the country. Hence, the only practicable solution is one which is undertaken on a national scale. This is true even though we acknowledge that the implementation of an action such as this might be undertaken at varying rates in various parts of the country, so that appropriate adjustments might be made for local conditions.

Our national economy is an integrated one, even when allowances are made for sectional differences and any effort to eliminate racial and religious discrimination from our national economy can most expeditiously be carried through under national legislation.

I turn now to a consideration of the actual bill before you. It is a bill which my organization endorses wholeheartedly. It contains the minimum essentials of an effective bill. It establishes an administrative agency with the necessary investigatory and enforcement powers. At the same time, it calls for the use by the agency of the techniques of adjustment of conciliation and persuasion where possible. Thus it grants to the administrative agency enforcing the act the elasticity and latitude necessary for an intelligent application of the act in all portions of our country.

The act also contains adequate and clear definitions of the evil against which it is directed. It places on the administrative agency enforcing the act the necessary constitutional checks for it makes provision for court review while, at the same time, it permits speedy

enforcement of the act by doing away, where possible, with the trial of the issues *de novo*.

An important respect in which this act differs from all previously introduced bills is that it provides the machinery for eliminating possible conflicts and establishing cooperation between the Federal enforcement agency and the State enforcement agencies in those States which already have State FEPC laws.

The act also prevents the bogging down of the agency enforcing the law with a multitude of unimportant cases. This it does by limiting its applicability to employers of 50 or more employees. Thus it permits the enforcing agency to concentrate on the economically significant areas of our national economy.

The proposed bill is praiseworthy in that it establishes machinery for educating the public to the need for encouraging and strengthening our democracy by universal public observance of its basic tenets, the establishment of equality of opportunity for employment for all, regardless of their race or creed.

In conclusion, I would like to state that it is the opinion of my organization that the enactment of this law would be tantamount to the writing of a new Magna Carta. In years to come, our country will be able to look back on this law as one of its great contributions to the advancement of democracy, not only in this country, but throughout the world.

Thank you, sir.

Mr. POWELL. Just for the sake of the record I would like to comment on the fact that we ought to remove one of the great lies of anti-Semites, and that is that the banking industry is controlled by Jews, that the Jews own Wall Street, and that in Chicago they are trying to place the Jews in the banks. The anti-Semites say the Jews control the pursestrings of America, that the Jews control Wall Street.

Mr. EDELSBERG. Yes; that is one of their big propaganda lines.

Mr. POWELL. Do you feel anti-Semitism is on an increase in the North?

Mr. EDELSBERG. Our survey shows that there has not been any substantial change since the end of the war. The business of measuring anti-Semitism is not an easy job. We are very humble about the efficiency of our methods. We are always trying to improve them. During the heyday of the isolationistic period just before the war when the effect of Nazi propaganda was greatest, there were more than 300 organized anti-Semitic groups, and today there are roughly 50 such organizations. That is one measure of the decline of organized professional, Hitler type anti-Semitism in this country. We are not now too much concerned about the Hitler-type anti-Semitism in this country; we have too much respect for the good will and common sense of the American people to be concerned about that.

But there is another type of anti-Semitism which goes by the name of the gentlemen's agreement type of anti-Semitism. That is the type that is reflected in discrimination in employment, in housing, in education, that has a substantial force in American life, and it is toward that kind of anti-Semitism that we direct most of our efforts. We don't think there is an appreciable change in that type of anti-Semitism.

Of course you gentlemen in Congress are yourselves a barometer of the extent of anti-Semitism. There is no better cross section of the

attitude and mores, the hopes and prejudices, of the American people than the House of Representatives. I think you will agree with me there has been a change for the better in the Eighty-first Congress as compared with the Eightieth, or even with the Seventy-ninth.

MR. BURKE. The dangerous thing about anti-Semitism and anti-Negro discrimination, of course, is the fact that it filters down to the ranks and file of the people generally.

MR. POWELL. Yes.

MR. BURKE. I believe, at least I have always held the belief, that the economic fear was the feeding ground on which those interested in promoting that discrimination and that anti feeling was best carried out. Personally I have always felt no one could sell me on the idea of discrimination, of anti-Semitism, or any other kind of anti, because I have always felt I have been more able to take care of myself.

MR. EDELSBERG. Mr. Burke, you have put your finger on one of the important aspects of the problem of combating prejudice. There is a great snob factor in prejudice. When the boss of the firm makes anti-Negro or anti-Semitic remarks you will find that the boys down the line try to ape him. When the top men in the firm, or the top people in the Congress, show they have nothing but contempt for prejudice and discrimination, you will find that the other people down the line try to follow them and emulate their leadership.

My great hope is that the Congress, when it comes to reflecting public opinion, will not give equal weight to the public opinion of the prejudiced and the public opinion of the tolerant. I submit very respectfully that it is the job of the Congress to give greater weight to the opinion of those who are free from bigotry, to those who represent an advance in the mores, as against the opinion of those who are prejudiced, bigoted, and who want the status quo, or even reaction in our mores and habits.

MR. BURKE. It is easy to convince some people anyway that a transference of a blame for their own failures in respect to a race, or creed, or color, is the thing to be done, and that is why these things really are insidious.

MR. EDELSBERG. The scapegoating factor—that is the term of art used by the experts—is, of course, a very mighty factor.

MR. POWELL. Thank you. Our last witness for today is Rev. Sandy Ray, of National Baptist Convention.

TESTIMONY OF REV. SANDY F. RAY, CHAIRMAN OF THE SOCIAL SERVICE COMMISSION OF THE NATIONAL BAPTIST CONVENTION, INC.

MR. POWELL. Congressman Burke, Reverend Ray was formerly a member of the Ohio State Legislature from Columbus, but he thought he should have salvation in New York City, so he went there.

MR. BURKE. I was a member of the Ninety-fourth General Assembly. That was in 1941 and 1942. I was elected in 1940.

MR. POWELL. You may proceed, Reverend.

REVEREND RAY. Mr. Chairman and members of the committee, I am Sandy F. Ray, chairman of the Social Service Commission of the National Baptist Convention of the United States, Inc. The conven-

tion has a membership of 4,170,380. I reside at 846 Putnam Avenue, Brooklyn, N. Y.

Mr. Chairman and members of the Subcommittee on Anti-Discrimination Legislation of the House of Representatives, as a religious group we believe that the basic principles of democracy as set forth in the Declaration of Independence, the Bill of Rights, and the Constitution of the United States of America, are compatible to the teachings of Jesus Christ, Himself, but the failure to practice those principles destroys the unity of the Nation and weakens our position in world leadership.

We believe that we have a clear mandate from Christian principles to advocate all measures which seek to accord equal rights and dignity to all citizens of the United States of America. We believe that the fundamental premise upon which the whole theory of American political, social, and economic structure rests, is contained in the words of the Declaration of Independence:

All men are created equal; that they are endowed by their Creator, with certain inalienable rights; that among them these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

We believe that the right to work and to earn, according to one's skill is a basic human right, and any nation, or group within a nation, which denies any group of citizens that right, violates the principles of democracy, and forces them to the outer fringes of a democratic society. They force them into areas of hunger, disease, ignorance, crime, and death. We believe that the practical expression of justice is in the Golden Rule: "As yet would that men should unto you, do ye even so to them." This is the key to a functioning democracy.

Democracy is challenged today on a world scale, by a contrary way of life. Hundreds of millions of people the world over are watching America, with a critical view. They are judging us by our action and attitude, not by our words and our documents. Our failures and our violations of professed principles, seriously affects our voice in world councils. We believe that all socially and economically disinherited minorities have a moral right, and spiritual responsibility to prod our Nation into practical applications of our professed ideals.

We believe that peace, to abide, must be built upon the solid foundation of justice and equality, that there can be no abiding peace without justice. The denial of the right to work and earn a decent living is not only contrary to democratic principles but morally wrong. Our plea is for righteousness in all areas of our human relationships. "Righteousness exalts a Nation, but sin is a reproach to any people."

As American citizens, we believe that America is a land of hope and promise. As Christians we believe that segregation and discrimination, like a greedy malady, are eating away the vitals of that hope and promise.

I am before you, representing 4,000,000 of the largest minority group in America. We have long borne the shackles of economic slavery, and yet, we have remained loyal because we sincerely believe that America can rise to the lofty level of her patriots' dreams. We believe that our patriotism and loyalty deserve freedom now. We believe that national machinery should be set in motion to break our economic shackles now. We believe that our professed democracy should become a functioning reality now.

The United States has asserted its national powers on many occasions, to maintain its unity and dignity. We believe our Nation should rise up now and speak and act against the national evil of segregation and discrimination in the employment of all of its citizens.

We know that economic and social oppression lower the general moral of the oppressed, and render them easy victims of un-American philosophies, but, as Christians and Americans, we are unmoved by the advocates of any and all foreign ideologies.

We do not believe that any philosophy of government which opposes democracy can find rootage in a truly democratic society. We are sincerely interested in a strong, unified, truly democratic America, a working, growing, producing America, an America utilizing all of its potential material and manpower, without regard for race, creed, or national origin. That is the America of our Constitution. That is the America of our hopes and dreams. That is the America that must be. That is the only America that shall ultimately be.

We are now in the greatest crisis of our history. We have demonstrated our military powers in two world conflicts. Our fight now is not physical, but moral. Our test is to determine whether or not we have the moral and spiritual strength to match our military power. That strength will not be shown by our diplomats in the councils of world leaders, but by our attitude and behavior in relation to injustices and inequalities within our own borders.

If, by moral and spiritual strength, we break the awful fetters of social and economic slavery, which bind millions of our loyal citizens, we shall be able to move in world councils with irresistible influence.

As citizens, we must look to our elected representatives for legislation to activate our ideals. We believe that your very presence here indicates that you have your Nation at heart. We hope that you believe with us, that all forms of segregation and discrimination in employment are undemocratic. We urge you to assert your powers, as elected representatives, to crush the ugly head of racial discrimination. When all forms of segregation and discrimination in America go, and they must, every citizen of this land shall be able to "pledge" without faltering speech, "allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation, indivisible, with liberty and justice for all."

We are prepared to aid in any program of education in connection with the FEPC through our churches, associations, State conventions, and the national convention itself.

I wish to thank you for this time.

Mr. POWELL. Thank you. I don't know whether you have any comment that you can add, but the FEPC legislation is also approved by the religious bodies in the South, the Southern Church, the Southern Conference of Methodist Churchmen, who went on record for it; the Fellowship of Southern Churchmen have gone on record for it.

Do you have any comment? Do you know of any denominations of white groups in the South that are also in favor of FEPC?

Reverend RAY. I don't know any offhand, only that I have read of several. As you have indicated, I know that the Methodist group went on record, and the Presbyterian group went on record.

Mr. POWELL. Presbyterian South?

Reverend RAY. Yes. I think a majority of not only the church people but others, even the industrial leaders, believe it is right. I

believe our trouble is that they haven't probably reached the moral and spiritual maturity to be actually able to do these things.

Mr. POWELL. Were you here when the gentleman testified about the Ku Klux Klan?

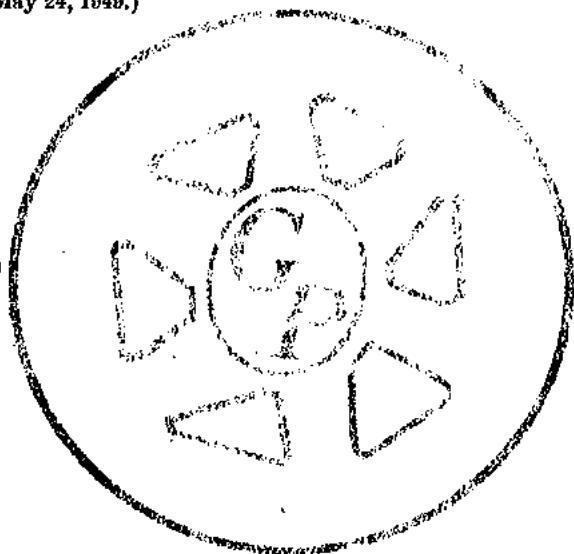
Reverend RAY. I heard the last part of his testimony.

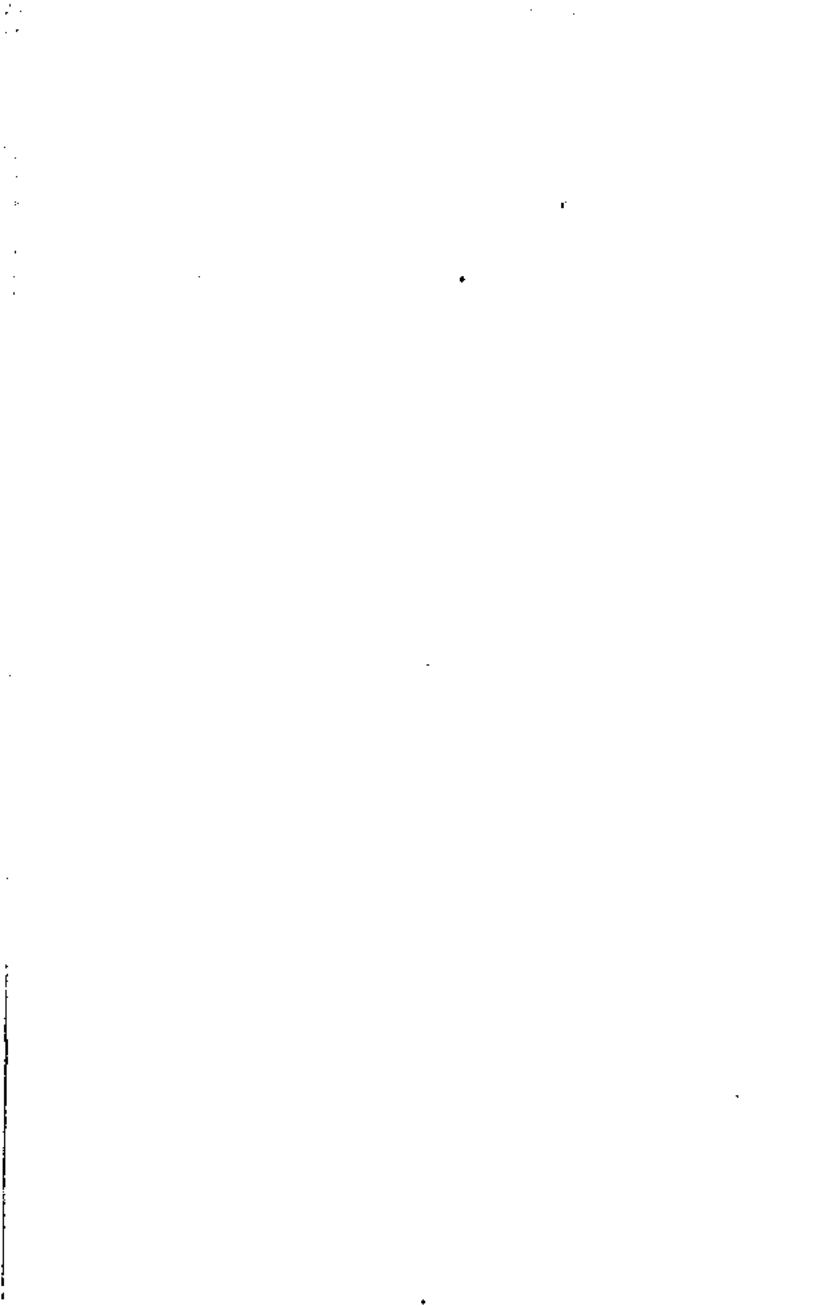
Mr. POWELL. I think when we have him back again we will be able to go into it carefully and we will find out that people who are Klan-minded rather than Christ-minded are in a very distinct minority in the South. It is my firm opinion that the majority of the people of the South are ready for any type of Christian legislation, and that the FEPC, as has been brought out in the testimony of the National Synagogue Council, the Friends, the Catholic Church, and the National Baptist Convention, is really a form of religious, Judaeo-Christian legislation. Don't you think so?

Reverend RAY. I really think so.

Mr. POWELL. The committee stands adjourned until 10 o'clock Tuesday morning.

(Whereupon, at 12:45 p. m., the committee adjourned to 10 a. m. Tuesday, May 24, 1949.)





FEDERAL FAIR EMPLOYMENT PRACTICE ACT

TUESDAY, MAY 24, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Adam C. Powell, Jr. (chairman), presiding.

Mr. POWELL. The committee will come to order.

Mr. Will Maslow, of the American Jewish Congress.

We are meeting before any of the other Members come, so you can get away early, Mr. Maslow. We are happy to welcome you.

TESTIMONY OF WILL MASLOW, COUNSEL, AMERICAN JEWISH CONGRESS

Mr. MASLOW. Mr. Chairman, my name is Will Maslow. I am general counsel to the American Jewish Congress. Before that time I was director of field operations of the President's Committee on Fair Employment Practices. I have thus been engaged in an effort to reduce or eliminate the discriminatory employment practices for the last 6 years.

I have had considerable experience working both in States where there are State FEPC laws and in States where there are not, and one lesson seems to me driven home by that experience, and that is any effort to enact a Federal bill without enforcement powers would be a counterfeit measure, and it would not be a half-way step, but it would be a step backward.

Mr. POWELL. Do you wish to have your statement included in the record now?

Mr. MASLOW. I have already given my statement to the reporter.

Mr. POWELL. Without objection, it is so ordered.

(The statement is as follows:)

The American Jewish Congress was organized, in part, " * * * to help secure and maintain equality of opportunity for Jews everywhere, and to safeguard the civil, political, economic, and religious rights of Jews everywhere." Our movement recognizes fully that equality of opportunity for Jews can be truly secured only in a genuinely democratic society. Accordingly, we seek to fight every manifestation of racism, to promote the civil and political equality of all groups and persons in America, and to support measures designed to safeguard civil liberties and to build a better America. We regard ethnic discrimination, whether directed against Jews, Negroes, Chinese, Mexicans, or any other group, as a single and indivisible problem and as one of the most urgent problems of democratic society.

Nothing more gravely threatens American democracy today than the fact of its incompleteness. Democracy to be secure must be complete. An incomplete

democracy is an insecure democracy. Despite all the progress we have made, American democracy remains alarmingly incomplete because millions of our fellow citizens are still denied their legitimate democratic rights and full equality of treatment on account of their race, color, creed, or national origin.

In no area is this denial of democratic rights more serious or destructive than in the field of employment—the denial of work or promotion to qualified applicants because of racial or religious considerations.

This committee is now considering a bill (H. R. 4453) to correct that evil. It is not the first of such bills, nor is this the first congressional hearing on the subject. FEPC bills were introduced in the Seventy-eighth, Seventy-ninth, and Eightieth Congresses.

In 1944 the House Committee on Labor held public hearings on H. R. 8080, H. R. 4004, and H. R. 4005, three identical FEPC bills, while in the same year a subcommittee of the Senate Committee on Education and Labor held public hearings on S. 2018. All the witnesses who appeared at these hearings supported the pending legislation, and both committees reported the bills favorably (H. Rept. No. 2016, Dec. 4, 1944; S. Rept. No. 1100, Sept. 20, 1944). During the Seventy-ninth Congress public hearings were held by a subcommittee of the Senate Committee on Education and Labor on S. 101 and S. 451. The committee reported favorably S. 101 (Rept. No. 200, May 24, 1945). Again all the witnesses testifying before the committee supported the legislation. The House Committee on Labor of the Seventy-ninth Congress, without holding public hearings, reported favorably H. R. 2232 (Rept. No. 187, Feb. 20, 1945). The Eightieth Congress again considered FEPC legislation. A subcommittee of the Senate Committee on Labor and Public Welfare held extensive hearings on S. 984. An overwhelming majority of the witnesses testifying before the committee supported the legislation, the only opposition witnesses being two public officials in the State of Mississippi and a representative of an organization of southern businessmen. The Senate Committee on Labor and Public Welfare reported favorably S. 984 (Rept. No. 951, Mar. 2, 1948).

In fact, the issue before this committee is not whether discrimination is bad. That is recognized by all but the open advocates of Hitler's racism. The only debatable issues are whether discrimination can be reduced by legislation and whether such legislation should be enacted by State governments, the Federal Government, or both.

The lesson that government action can be effective to curb discrimination is taught by our experience with the wartime FEPC, by the antidiscrimination laws which were on the books of four States at the beginning of this year, by the addition of at least four more State laws during this year, and by the failure in past years of purely educational techniques. It is driven home by the fact that the President's Committee on Civil Rights, the President's Commission on Higher Education, and the other official bodies which have studied discrimination have uniformly concluded that legislation is appropriate and necessary.

The wartime FEPC did not have full enforcement powers. Nevertheless, it had certain limited sanctions. Its success was due to those sanctions, and the limited nature of its success was due to the fact that its powers were limited.

The favorable experience with State laws was summarized by Mr. Henry Turner, then chairman of the New York State Commission Against Discrimination, in his testimony at the Senate hearings on the Ives-Fulton bill in 1947. He said (p. 329):

"The importance of the sanctions or of the powers of enforcement, to my mind, are quite analogous to the truancy laws which are effective in our educational system. It has compelled people to pay attention to the fact of the existence of the law and the philosophy which it expresses; and, unquestionably, in my opinion, has rendered the processes of conference and conciliation, which have been rather effectively used in the State of New York—it has made them possible."

After Mr. Turner delivered his statement, the following colloquy took place (hearings, p. 338):

"Senator SMITH. I value your judgment, Mr. Turner, very highly because you must know from your experience to what extent it is necessary to have legal sanctions behind you in what you are trying to do.

"Mr. TURNER. In our opinion, the conciliation affords the method for getting management and labor groups into conference for the purpose of instituting these conciliation processes and has been greatly aided.

"Senator SMITH. You still have the subpoena power?

"Mr. TURNER. We still have the subpoena power, but you have no impulse to accept the conciliation efforts unless there was in the background somewhere

the possibility that, if you will not sit down and debate this issue thoroughly, sanctions may be imposed, or the authority of the courts may be called upon to aid in the establishment of your order.

"Senator SMITH. Is that based on your experience; that if sanctions had not been there you would not have received that cooperation?"

"Mr. TURNER. I think we have had enough experience to realize that if there was that consciousness always in the mind of the employer or respondent in the case, there was always the possibility of that alternative. I do not mean to say the conference necessarily proceeded under duress. I do not mean to imply that, but there was always the possibility of that alternative which rendered him more willing to sit down and realize he had to make certain concessions."

Certainly it is clear that none of the dire predictions made about the State laws before they were passed have been fulfilled.

The memorable words of the President's Committee on Civil Rights bear frequent repetition (Report: To Secure These Rights, p. 135):

"All of our governments, Federal, State, and local, must be uncompromising enemies of discrimination, which is prejudice come to life."

On the same subject the President's Commission on Higher Education said (Higher Education for American Democracy, vol. II, p. 27):

"Where assurance of good conduct in other fields of public concern has not been forthcoming from citizen groups, the passage of laws to enforce good conduct has been the corrective method of a democratic society."

The American Jewish Congress firmly believes that discrimination in employment because of race, religion, color, national origin, or ancestry must be made illegal. We therefore support H. R. 4453. We have little patience or sympathy with the view which argues that such legislation is doomed to ineffectiveness until there has been a change in the minds and hearts of men and the prejudices which many people entertain are dissolved by education or exhortation. Experience has unanswerably revealed that all the talk about brotherhood and equality and tolerance has had virtually no impact on the practice of discrimination and that this antidemocratic pattern has been modified only where we have enlisted the aid of law and public regulation.

Children are not born with prejudices. Protestant, Catholic, and Jew, Negro and white, live and play and go to school together without self-consciousness until they are corrupted by the facts of the society in which they live. No education for brotherhood or equality can be successful where the principles which education sets forth are constantly contradicted by the stark facts of segregation, discrimination, and inequality. Education against prejudice can make progress only where there has been prior action against discrimination.

Existing patterns of discriminatory practice strengthen and reinforce racial prejudice and this prejudice in turn fosters and encourages still further discrimination. If we are to shatter the barriers of prejudice by which our country is still divided, we must destroy those discriminatory practices on which prejudice feeds. The country is challenged by the urgent need of breaking the vicious circle of discrimination and prejudice. It can be broken only by attacking racism at those points where it expresses itself in overt social and public practices rather than in the minds and hearts of men. That I consider to be the aim and purpose of H. R. 4453.

The bill before this committee is not directed against a state of mind. It does not bid anyone to change his views or to abandon his prejudices. But it does assert that, when these prejudices find expression in discriminatory conduct, the Nation and public have a right to demand that the conduct come to an end. Conduct is not a matter merely of private conviction; it is a subject of vital public concern. By outlawing discrimination, we shall not only be eliminating one of the most flagrant violations of democratic practice. We shall be taking a major step in the dissolution of prejudice.

These observations are fully supported by even our limited experience. In the Detroit race riot in June 1948, for example, those factories in which the segregation of Negroes and whites had been eliminated were islands of stability in a sea of terror. Again and again during the war, strikes against the proposed elimination of discrimination were threatened by white workers trained in the habits of prejudice. Yet, where a firm policy was pursued and the discriminatory policy abandoned, the strike threats vanished and realistic and effective education in racial and religious equality followed. Where ethnic groups associate on the basis of genuine equality, racial tension does not exist. It prevails only where groups are ranged on opposing sides of an artificial economic barrier.

If we are to educate for equality, we must therefore first eliminate and reduce the areas in which inequality prevails. Passage of H. R. 4453 may leave pockets of die-hard resistance. But it will greatly enlarge the area in which Jews and Christians, Negroes and whites, work side by side. This alone will provide millions of our citizens with the most effective education in democratic living.

There is still some doubt, however, as to whether we should look to the Federal rather than, or in addition to, the State governments for anti-discrimination legislation. Certainly this is a matter of concern to the entire Nation.

Discrimination in employment severely affects not only the particular groups against which it is directed but the entire Nation. When members of these groups are denied jobs for which they are qualified, they are forced to accept less remunerative employment or none at all. The living standards of these groups are thus lowered, and their members discouraged from developing their skills and special abilities. The Nation loses an important source of skill and manpower, and lowering the living standards of any group in the country adversely affects the economy as a whole.

These lessons were brought home to us during the war only because the situation had reached the point of desperation. But it is no less urgent in the interests of American democracy and security that we apply the lesson in times of peace. Today, we must be no less concerned with the devastating social, psychological, and moral effects of discriminatory practices than we were during the war with their economic effects. We can hardly expect all those who are frustrated in their normal and legitimate ambitions to remain in all respects law-abiding and useful citizens. Individual delinquency and psychological abnormality are the least that can result from the knowledge that so many avenues of employment and advancement are closed because of one's race or religion. Mass unrest, tension, and disturbances are equally inevitable consequences of our antidemocratic practices.

Though I shall refer to it but briefly, there is today another aspect to this problem of discrimination in our midst of great importance—its international implications. Our adherence to the charter of the United Nations bound this country to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." Less than 6 months ago the United States voted in the General Assembly of the United Nations to proclaim the Universal Declaration of Human Rights. Article 23 (1) of the declaration provides that "Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment" and article 2 (1) provides that "Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status." Throughout the world, nations are looking to this country for democratic leadership. It is only natural that they should do so because we have led the world in developing the concepts and practice of liberty and freedom. But, as these nations look at us closely, they see many things which disfigure and tarnish our record. They see too great a gap between our professions and our practices. Despite our obligations under the United Nations Charter, we continue to deny, through discrimination and segregation, the democratic rights of many of our citizens because of their race and color. As a result, these nations inevitably question our good faith and sincerity. If we are sincerely to establish our claims to moral and democratic leadership throughout the world, we must take determined and imaginative action to bring our social and public practices into complete harmony with our professions of equality and democracy. The passage of H. R. 4453 would represent that kind of action.

State action alone will not solve this national problem. We cannot ignore the practical fact that the greater the degree of discrimination in any State, the smaller is the likelihood of effective legislation. If we leave this matter to the States alone, as will be applying the cure only where it is needed least. As President Truman said in the Executive order creating the Committee on Civil Rights, "The constitutional guarantees of individual liberties and of equal protection under the laws clearly places on the Federal Government the duty to act when State or local authorities abridge or fail to protect these constitutional rights."

The importance of effective legislation is shown not only by generalized argument but also by the hard fact that racial and religious discrimination is and continues to be widespread.

During the war, the situation with regard to Jews improved substantially. The acute manpower shortage helped to break down many existing barriers. There was ample demonstration during this period that these racial barriers could be moved.

These facts are common knowledge. What is less widely recognized is that the situation is not improving; it is deteriorating. The growth of new industries from which Jews are barred and the progressive liquidation of small-business enterprises through which Jews have sought escape from discrimination render their situation increasingly acute. The growth in the industrial demand for skilled rather than unskilled labor has had a similar effect on Negroes, Latin Americans, and other groups who have been forced to find their chief employment opportunities in menial tasks. There has been no compensating decrease in discriminatory practices. Despite all the talk in recent years about equality and freedom, progress has been made only where that talk has resulted in the enactment of effective legislation to guarantee the democratic rights and equal treatment of all persons.

One aspect of the widespread practice of discrimination requires particular mention. Even a cursory tour of Government buildings in the Nation's Capital will immediately reveal the rigid segregation of Negro employees in limited job classifications. It is hardly coincidental that prior to the war, 60 percent of all Negro Federal employees in Washington were in custodial jobs. Government agencies were responsible for 20 percent of the case load of the wartime FEPC. Federal and State placement services throughout the country almost invariably follow local practice with utter disregard of the fact that, as public agencies, they are bound by law to accord equal treatment to everyone. The placid acceptance of this unconstitutional and undemocratic practice is both amazing and highly disturbing.

There can be no excuse of the continuance of this illegal situation. Discrimination in employment by the Federal Government must cease immediately. Nothing can more seriously set back the cause of equality in employment opportunity than the bad example too frequently set by governmental agencies. That practice is already forbidden by the Constitution. The Congress of the United States has not only the unquestionable right and power but the inescapable moral duty to enact legislation which will make the Constitution a reality in Federal hiring policies.

We are submitting herewith a statement of chief points of difference between the Ives-Fulton and the McGrath-Powell FEPC bills and a statement of an analysis of existing State fair-employment-practice legislation.

Mr. MASLOW. There are at present, Mr. Chairman, 10 States which have FEPC laws of one type or another, and if it is of any interest to the committee I would like to offer a chart which I have prepared which analyzes, in great detail, the various provisions of these State laws.

Mr. POWELL. Without objection, this table will be printed in the record of the hearings.

(The chart is reproduced following this page.)

Mr. MASLOW. As you will note, Mr. Chairman, there are now eight States which have FEPC laws with enforcement powers. New York, New Jersey, Massachusetts, and Connecticut are the four which had such laws before the beginning of this legislative session.

Four more have been added: Rhode Island, New Mexico, Oregon, and Washington.

In addition, there are two States, Indiana and Wisconsin, which have had what have passed for FEPC laws since 1945, and those laws I would describe as counterfeit measures, because they hold out a semblance of activity, but so far as we can determine practically nothing is being done in those two States to eliminate discriminatory employment practices.

I think perhaps that experience may be of some help because I understand from the President some members of this committee apparently

believe you can accomplish something by having a Federal statute without enforcement powers.

In Wisconsin, the total appropriation in this heavily industrialized State is \$5,000 a year, which provides a budget for one girl who attempts to do some social work among Negroes.

In Indiana, the statute is administered by the Industrial Commissioner of Labor. One indication of the type of enforcement that is getting is that no report has been issued of its operations since 1940.

The experience of the President's Committee on Fair Employment Practices during wartime likewise illustrates the difficulty of trying to enforce a statute without enforcement powers.

You will remember, Mr. Powell, how, in the crucial cases during wartime, the directives of the President's Committee were flouted contemptuously, and nothing could be done to induce these large enterprises to comply with the Presidential policy.

I need only mention half a dozen of the large cases in which nothing was accomplished. One was the railroad case involving an effort of certain lily-white brotherhoods and the railroads to conspire to drive Negro firemen off the roads.

FEPC held hearings. President Roosevelt appointed a committee to try to induce voluntary compliance, and nothing could be done, and yet when a single case went to the United States Supreme Court—the case of *Tunstall against Steel*—that decision won instant obedience.

Similarly, there was the experience of the Philadelphia Transit Corp., where a strike took place tying up production in the city of Philadelphia during wartime, and the experience of Capital Transit Co., where nothing could be done by voluntary action, and also the experience of the seafarers' union. That, I predict, Mr. Chairman, would be the result of any statute which did not give a commission the power to enforce its orders.

By this time most of the employers in the United States who can be reached by exhortation, by appeals to brotherhood, or by cold logic, have now been reached. Any further efforts at voluntary persuasion, it would seem to me, encounter great difficulties.

The experience, however, in those States in which there are FEPC laws indicates, by and large, there is a general public acceptance of these statutes and, as a result, minority groups which have been in existence for decades have now been abandoned. The comparison, therefore, between the two types of legislation indicates, I submit, the type of statute which this committee should recommend.

Perhaps there may be some question in your mind as to the necessity for Federal action in view of the fact that by now we have eight effective State FEPC laws.

One of the answers to that problem, Mr. Chairman, is that in many States, like Pennsylvania, for example, an FEPC bill has been killed for the third time. We do not know yet whether Ohio, Michigan, or Illinois, which are heavily industrialized States, will, in this session enact FEPC laws.

Most of the States meet biennially, and if they fail at this session then they will have to wait another 2 years. And it is in those States where there is greatest need for the intervention of the Government. There is no hope for FEPC legislation on the part of all the States.



	New York	New Jersey	Indiana	Wisconsin	Massachusetts	Connecticut	New Mexico
Effective	Law 1945, Ch. 110	Law 1945, Ch. 189	Law 1945, Ch. 215	Law 1945, Ch. 480	Law 1945, Ch. 349	Law 1947, Ch. 171	
Right to Work Protected (202)	Civil Right	Civil Right	Right and Privilege	Not specified	Right and Privilege	Not specified.	Civil Right.
Subject to Act	Labor organizations. All enterprises conducted for profit and employing 8 or more. Employment agencies.	Labor organizations. All enterprises conducted for profit and employing 8 or more. Employment agencies.	Labor organizations. All enterprises conducted for profit.	Labor organizations. All enterprises conducted for profit.	Labor organizations. All enterprises conducted for profit and employing 8 or more. Employment agencies. State agencies.	Labor organizations. All enterprises conducted for profit. Employment agencies. State and its political and civil subdivisions.	Labor organizations. All enterprises conducted for profit and employing 8 or more. State and its civil subdivisions. Employment agencies. Contracting agencies.
Excluded from Act	Nonprofit enterprises. Employers of less than 6. Persons employed by family.	Nonprofit enterprises. Employers of less than 6. Persons employed by family.	Nonprofit enterprises. Persons employed by family.	Nonprofit enterprises. Persons employed by family.	Nonprofit enterprises. Employers of less than 6. Persons employed by family.	Employers of less than 6. Family members employed by the family. Domestic servants.	Nonprofit enterprises. Employers of less than 6. Family members. Domestic servants.
Illegal Practices	Discrimination by employers in hiring, firing, or working conditions. Discrimination by labor organizations as to rights or privileges of membership. Advertisements specifying or inquiring concerning race, color, creed, national origin or ancestry of applicants for employment. Refusal of employer to work with members of minority group. Discrimination against persons filing complaints under the terms of this Act.	Discrimination by employers in hiring, firing, or working conditions. Discrimination by labor organizations as to rights or privileges of membership. Advertisements specifying or inquiring concerning race, color, creed, national origin or ancestry of applicants for employment. Refusal of employer to work with members of minority group. Discrimination against persons filing complaints under the terms of this Act.	Not specified.	Not specified.	Discrimination by employers in hiring, firing, or working conditions. Discrimination by labor organizations as to rights or privileges of membership. Advertisements specifying or inquiring concerning race, color, creed, national origin or ancestry of applicants for employment. Refusal to post notice of passage of this Act. Discrimination against persons filing complaints under the terms of this Act.	Discrimination against persons filing complaints under the terms of this Act. Discrimination by employers in hiring, firing, or working conditions. Discrimination by labor organizations as to rights or privileges of membership. Any form of discrimination against any individual because of his race, color, religious creed, national origin or ancestry.	Discrimination in hiring, firing, or working conditions. Discrimination by labor organizations as to rights or privileges of membership. Advertisements inquiring concerning race, color, creed, or national origin of applicants for employment. Discrimination against persons filing complaints under the terms of this Act.
Sanctions for Discriminatory Practices	Commission orders to cease and desist and take affirmative action enforceable in court. Up to \$500. fine and/or one year in jail for willful violation of Commission order.	Division orders to cease and desist and take affirmative action enforceable in court. Up to \$500. fine and/or one year in jail for willful violation of Division order.	Not specified.	Not specified.	Commission orders to cease and desist and take affirmative action enforceable in court. Up to \$500. fine and/or one year in jail for willful violation of Commission order.	Commission orders to cease and desist enforceable in court.	Commission order to cease and desist and take affirmative action enforceable in court. Up to \$500. fine and/or one year in jail for willful violation of Commission order.
Administered By	State Commission Against Discrimination. 8 members.	Division of State Department of Education. Commissioner of Education plus 7 members.	Division of Labor. Commissioner of Labor plus 8-member advisory Bd. (4 Senate & 4 Reps., plus 4 Gov.)	Industrial Commission. 7-member advisory committee representing labor, business and public interests.	Fair Employment Practices Commission. 9 members.	Inter-Racial Commission. 10 members with 5-year overlapping terms-5 appointed each year.	New Mexico Fair Practice Commission.
Assisted By	Governor, with advice and consent of the Senate.	Governor, with advice and consent of the Senate.	Governor.	Governor.	Governor, with advice and consent of the council.	Governor	Governor with advice and consent of Senate
Salary for Members	\$10,000. Necessary expenses.	Same. \$7,000. Necessary expenses.	Same. Necessary expenses.	Same. Necessary expenses.	\$4,000. Same. \$8,000. Necessary expenses.	\$12 per diem when conducting hearings.	\$10 per diem. Necessary expenses.

ANALYSIS OF EXISTING STATE FAIR-EMPLOYMENT-PRACTICE LEGISLATION

	Massachusetts	Connecticut	New Mexico	Oregon	Washington	Wyoming
	Law 1948, Ch. 548	Law 1947, Ch. 171				Law 1948, Ch. 3181
	Right and Privilege	Not specified.	Civil Right.	Not specified.	Civil Right.	Civil Right.
All enter- prise.	Labor organizations. All enter- prises conducted for profit and employing 8 or more. Employment agencies. State agencies.	Labor organizations. All enter- prises conducted for profit. Employment agencies. State and its political and civil subdivisions.	Labor organizations. All enter- prises conducted for profit and employing 8 or more. State and its political and civil subdivisions. Employment agencies. Contracting agencies with the state.	Labor organizations. All enterprises conducted for profit and employing 8 or more. Employment agencies.	Labor unions. All enterprises conducted for profit and employing 8 or more. Employment agencies.	Labor organizations. All enterprises conducted for profit and employing 8 or more. Nonprofit non-sectarian nonprofit social work organizations engaged in social work. Employment agencies (profit or nonprofit)
Family.	Nonprofit enterprises. Employers of less than 8. Persons employed by family.	Employers of less than 8. Family members employed by the family. Domestic servants.	Nonprofit enterprises. Employers of fewer than 8. Family members employed by the family. Domestic servants.	Nonprofit enterprises. Employers of fewer than 8. Family members employed by family. Domestic servants.	Nonprofit enterprises. Employers of fewer than 8. Family members employed by family. Domestic servants.	Nonprofit enterprises (except nonprofit social work organizations). Employers of fewer than 8. Family members employed by the family. Domestic servants.
	Discrimination by employers in hiring, firing, or working conditions. Discrimination by labor organizations as to rights or privileges of membership. Advertisements specifying or inquiries concerning race, color, sex, national origin or ancestry of applicants for employment. Failure to post notice of passage of this Act. Discrimination against persons filing complaints under the terms of this Act.	Discrimination against persons filing complaints under the terms of this Act. Discrimination by employers in hiring, firing, or working condi- tions. Discrimination by labor orga- nizations as to rights or privi- leges of membership. Any form of discrimination against any individual because of his race, color, religious creed, national origin or ancestry.	Discrimination by employers in hiring, firing, compensation or conditions of employment. Discrimination by labor unions as to rights or privileges of membership. Advertisements specifying or inquiries concerning race, color, sex or national origin of applicants for employment. Discrimination against persons filing complaints under the Act.	Discrimination by employers in hiring, firing, compensation or working conditions. Discrimination by labor organiza- tions as to rights or privileges of membership. Advertisements specifying or inquiries concerning race, color, religion or national origin of applicants for employment. Discrimination against persons filing complaints under the terms of this Act.	Discrimination by employers in hiring, firing, compensation or working conditions. Discrimination by labor unions as to rights or privileges of membership. Discrimination by employment agencies in classification and referral. Discrimination against one filing complaints under terms of this Act.	Discrimination by employers in hiring, firing, compensation, or working conditions. For employers to knowingly utilize the services of a discriminatory referral service. Volitional discrimination by employ- ment agency or by compliance with discriminatory request. Discrimination by labor organizations as to rights or privileges of mem- bership. Advertisements, applications or records specifying or concerning race, color, religion or national origin. Applying a quota system to any group because of race, color, religion, or national origin. Discrimination against persons filing complaints under the terms of this Act.
	Commission orders to cease and desist and take affirmative action enforceable in court. Up to \$500, fine and/or one year in jail for willful violation of Commission order.	Commission orders to cease and desist enforceable in court.	Commission orders to cease and desist and take affirmative action. Enforceable in court. \$100-\$500 fine for failure to post notice of act.	Board orders to cease and desist. Enforceable in court. Up to \$500, fine and/or one year in jail for willful violation of Board order.	Commissioner's order to cease and desist. Enforceable in court. Up to \$500 fine and/or one year in jail for willful violation of Commissioner's order.	Commission orders to cease and desist and take affirmative action. Enforce- able in court. \$100-\$500 fine for failure to post notice of act.
Other action in	Fair Employment Practices Commission. 5 members.	Inter-Racial Commission. 10 members with 5-year overlapping terms-5 appointed each year.	New Mexico Fair Employment Practice Commission.	Bureau of Labor and Advisory Committee of 7.	Washington State Board Against Discrimination in Employment. 5 members.	Wyoming Commission for Fair Employment Practices of 5 members.
	Governor, with advice and consent of the council.	Governor	Governor with advice and consent of Senate.	Advisory Committee appointed by Governor.	Governor.	Governor with advice and consent of Senate.
	\$1,000. Ann. \$5,000. Necessary expenses.	\$25 per day when conducting hearings.	\$10 per day. Necessary expenses.	Necessary expenses of Advisory Committee.	\$20 per day while in session or on official business. Necessary expenses.	\$2500.

<u>Powers of Commission:</u>	Receive and investigate complaints. Maintain offices. Meet and function at any place within the state. Appoint staff. Conciliation. Subpoena witnesses. Conduct hearings. Issue cease and desist orders. Develop educational programs. Create advisory councils. Maintain liaison with local, state & federal agencies & officials concerned with matters relating to the work of the Division. Issue publications including a yearly report.	Receive and investigate complaints. Appoint staff. Conciliation. Subpoena witnesses. Conduct hearings. Issue cease and desist orders. Develop educational programs. Create advisory councils. Maintain liaison with local, state & federal agencies & officials concerned with matters relating to the work of the Division. Issue publications including a yearly report.	Receive and investigate complaints. Appoint staff. Conciliation. Recommend legislation and formulate plans for the elimination of prejudice. Investigate discrimination in state agencies and recommend corrective legislation.	Receive and investigate complaints. Subpoena witnesses. Conduct hearings. Publish findings. Recommend legislation and formulate plans for the elimination of prejudice. Issue publications.	Receive and investigate complaints. Initiate complaints. Maintain offices. Meet & function at any place within the state. Appoint staff. Conciliation. Subpoena witnesses. Conduct hearings. Issue cease and desist orders. Develop educational programs. Investigate discrimination in state agencies and suggest corrective measures.	Receive, initiate and investigate complaints. Maintain offices. Publish rules & regulations. Appoint staff. Conciliation. Subpoena witnesses. Conduct hearings. Issue cease and desist orders. Develop educational programs. Recommend policies and make recommendations for elimination of prejudice. Issue publications and reports. Investigate discrimination in state agencies and suggest corrective measures.	Receive upon request. Maintain offices within the state. Appoint staff. Adopt, rescind or amend rules of this agency. Conduct investigations. Take (but not reinstate) employment pay, in any case. Create advisory council. Formulate purposes. Develop Acceptance year.
<u>Complaints filed by:</u>	Persons aggrieved, Industrial Commission and Attorney General	Person aggrieved, Commission of Labor and Attorney General	Not specified.	Not specified.	Persons aggrieved, Attorney General and Commission.	Persons aggrieved and Commission.	Person Complainant Senate
<u>Time Limitation on Filing of Complaints:</u>	90 days	90 days	Not specified.	Not specified.	6 months.	6 months.	Not specified.
<u>Rules of Evidence:</u>	Not controlling. Findings conclusive if supported by evidence on the record as a whole.	Not controlling. Orders valid if reasonably supported by evidence.	Not specified.	Not specified.	Not controlling. Findings conclusive if supported by sufficient evidence on the record as a whole.	Findings conclusive if supported by substantial and competent evidence.	Not binding
<u>Review and Enforcement:</u>	Judicial review and enforcement.	Judicial review and enforcement.	Not specified.	Not specified.	Judicial review and enforcement.	Judicial review and enforcement.	Judicial review and enforcement.
<u>Appropriations:</u>	None stated.	\$44,580.	\$14,000 annually.	\$6,000 annually.	None stated.	\$25,000 annually.	None
<u>Referrals to the Courts:</u>	No.	No.	No.	No.	No.	No.	Yes.
<u>Construction:</u>	Liberal construction.	Liberal construction.	Not specified.	Liberal construction.	Liberal construction.	Not specified.	Liberal

	Necessary expenses.	Hearings.	Necessary expenses.	Committee.	Is also in session or on official business. Necessary expenses.	\$8500.
on and the value.	Receive and investigate complaints. Initiate complaints. Maintain offices. Meet & function at any place within the state. Appoint staff. Conciliate. Subpoena witnesses. Issue cease and desist orders. Develop educational programs. Issue publications including yearly report.	Receive, initiate and investigate complaints. Maintain offices. Publish rules & regulations. Appoint staff. Conciliation. Subpoena witnesses. Issue cease and desist orders. Conduct hearings. Recommend policies and make recommendations for elimination of prejudice. Issue publications and reports. Investigate discrimination in state agencies and suggest corrective measures.	Receive, investigate and pass upon complaints. Maintain offices. Meet and function at any place within the state. Appoint staff. Adopt, promulgate, amend, and rescind rules and regulations to effectuate the provisions of this Act. Subpoena witnesses. Conduct hearings. Issue cease and desist orders. Take affirmative action, including (but not limited to) hiring, reinstatement, or upgrading of employees, with or without back pay, or restoration to membership in any respondent labor organization. Create advisory and conciliation councils. Formulate policies to effectuate purposes of this Act. Develop educational program. Accept contributions. Issue publications including yearly report.	Meet and function at any place within the state. Study discrimination and formulate plans for its elimination. Cooperate with and furnish technical assistance to Commissioner of Labor, employers and others. Recommend procedure, plans and legislation to the governor and legislature. Issue publications including its reports.	Receive and investigate and pass upon complaints. Maintain offices. Meet and function at any place within the state. Formulate policies to effect purposes of this Act. Appoint staff. Adopt, promulgate, amend, and rescind rules and regulations to carry out provisions of this Act. Subpoena witnesses. Conduct hearings. Create advisory agencies and conciliation councils. Utilize services of all governmental departments and agencies. Make technical studies. Issue publications including twice-yearly reports.	Receive, investigate and pass upon complaints. Conciliation. Establish and maintain offices. Meet and function at any place within the state. Appoint a full-time executive secretary to the Commission and determine his remuneration. Appoint such personnel as it deems necessary to effectuate the purposes of this Act. Adopt, promulgate, amend, and rescind rules and regulations to effectuate provisions of this Act. Subpoena witnesses. Conduct hearings. Issue cease and desist orders. Take affirmative action, including (but not limited to) hiring, reinstatement, or upgrading of employees, with or without back pay, or admission or restoration to union membership. Utilize voluntary and uncompensated services of private individuals. Create advisory agencies and conciliation councils, local or statewide to aid in effectuating the purposes of this Act. Prepare a comprehensive educational program. Accept contributions. Issue publications. Report yearly. Make recommendations for further legislation.
	Person aggrieved, Attorney General and Commission.	Person aggrieved and Commission.	Person aggrieved, Industrial Commissioner and Attorney General.	Person aggrieved.	Person aggrieved and Board.	Person aggrieved, organization chartered for the purpose of combating discrimination or racism and Commission.
	6 months.	6 months.	N.B. specified.	Not specified.	6 months.	1 year.
	Not controlling. Findings conclusive if supported by sufficient evidence on the record as a whole.	Findings conclusive if supported by substantial and competent evidence.	Not controlling. Findings not binding.	Findings not binding.	Findings conclusive if supported by substantial and competent evidence.	Not controlling.
	Judicial review and enforcement.	Judicial review and enforcement.	Judicial review upon petition of complainant, intervener, or respondent. Court may consider entire record upon transcript of order trial de novo. Judicial enforcement.	Judicial review on applications of aggrieved party by a trial de novo. Mandamus, injunction, or suit in equity to compel specific performance.	Judicial review upon petition of respondent (except when political or civil subdivision of state is respondent). Injunction or other relief (except when political or civil subdivision of state is respondent). Governor shall enforce orders against political or civil subdivision of state.	Judicial review, upon petition of complainant, intervener, or respondent. Judicial enforcement.
	None stated.	\$85,000 annually.	None stated.	None stated.	\$85,000.	\$80,000.
	No.	No.	Yes.	No.	No.	Yes.
	Liberal construction.	Not specified.	Liberal construction.	Not specified.	Liberal construction.	Liberal construction.

I refer to the States in the South and in the deep South. In those areas FEPC bills are not even introduced, let alone seriously considered.

It is true there have been encouraging signs in the border areas. Kansas enacted a resolution this year appointing a committee to investigate employment. And it can only come out with one finding and one conclusion, that voluntary means are ineffective, and that you cannot eliminate unemployment by giving out good-will blotters or appealing to men's humanitarian instincts.

I have prepared a detailed comparison of the bill before this subcommittee with the so-called Ives-Fulton bill of last session, which has been reintroduced, and if the chairman believes it of any value I would like to introduce this detailed comparison for the record.

Mr. POWELL. Without objection it is so ordered.

(The document referred to is as follows:)

Chief points of difference between the Ives-Fulton and the McGrath-Powell FEPC bills

Subject	Ives-Fulton bill (S. 174, H. R. 64)	McGrath-Powell bill (S. 1728, H. R. 4453)
Title (preamble; sec. 1)..... Findings (sec. 2a).....	National Act Against Discrimination in Employment Discrimination in employment against properly qualified persons: Is contrary to the American principles of liberty and of equality of opportunity; Is incompatible with the Constitution; Forces large segments of our population into substandard conditions of living; Fosters industrial strife and domestic unrest; Deprives the United States of the fullest utilization of its capacities for production; Endangers the national security and the general welfare; Adversely affects the domestic and foreign commerce of the United States.	Federal Fair Employment Practices Act. Substantially the same with slight differences in style.
Civil right (sec. 2b).....	Right to employment without discrimination because of race, religion, color, national origin, or ancestry declared a "civil right."	Declared a "right" but omits ancestry.
Purpose (sec. 2c).....	To fulfill treaty obligations of United Nations Charter..... To promote respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.	To remove obstructions to free flow of commerce. To insure full enjoyment of rights and privileges protected by the Constitution. To promote respect for human rights and fundamental freedoms for all without distinction as to race or religion in accordance with United Nations Charter and to secure effective recognition of freedom and rights proclaimed by the Universal Declaration of Human Rights.
Intent (secs. 2d and 2b).....	Policy to protect the civil right and to eliminate discrimination to fullest extent permitted by Constitution.	Policy to protect the right of the individual to be free from discrimination in employment.
Definitions:		
(a) Person defined (sec. 3a).....	1 or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, any organized group of persons and any agency or instrumentality of the United States or of any Territory or possession.	Same, but adds District of Columbia.
(b) Employer defined (sec. 3b).....	Person engaged in commerce or in operations affecting commerce having in his employ 50 or more individuals. Any agency or instrumentality of the United States or any Territory or possession. Any person acting in the interest of an employer, directly or indirectly. No provision (but included in sec. 4, Exemptions).....	Same. Same, but adds District of Columbia. Same.
(c) Labor organization defined (sec. 3c).....	Organization having 50 or more employed members which exists for the purpose of collective bargaining or dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in connection with employment.	Specifically exempts a State or municipality and its subdivisions, nonprofit religious, charitable, fraternal, social, educational, or sectarian associations. Same.

(d) Commerce defined (sec. 3d)	Trade, traffic, commerce, transportation, or communication among the several States, between any State, Territory, or District of Columbia or any place outside within the District of Columbia or any Territory between points in the same State but through any point outside.	Same, but adds "possession."
(e) Affecting commerce defined (sec. 3e of I-F)	In commerce, or burdening or obstructing commerce or the free flow of commerce.	Not defined.
(f) Territory defined (sec. 3e of M-P)	Not defined.	
(g) Possession defined (sec. 3 of M-P)	do.	Alaska, Hawaii, Puerto Rico, and Virgin Islands
(h) Commission defined (secs. 3 and 3g)	National Commission Against Discrimination in Employment. Any State or municipality or its subdivisions; nonprofit religious, charitable, fraternal, social, educational, or sectarian associations. No provision.	All possessions and trust territories held by United States under United Nations authority and Canal Zone; excludes places held by lease or by military occupation.
Exemptions (sec. 4)		Fair Employment Practice Commission.
Unlawful employment practice:		No provision (but included in definition of employer, sec. 3b).
(a) Employers (secs. 5a and 5c)	To refuse to hire, discharge, or otherwise discriminate because of race, religion, color, national origin, or ancestry.	Exempts employment of aliens outside continental United States, its Territories, or possessions.
	To recruit employees through employment agency, placement service, training school or center, union, or other source which discriminates because of race, religion, color, national origin, or ancestry.	Same, but omits ancestry.
	To discharge, expel, or otherwise discriminate against any person because he has opposed any unlawful employment practice or has filed a charge or assisted in a proceeding under the act.	Do.
(b) Labor organizations (secs. 5b and 5e)	To discriminate against any individual or to limit, segregate or classify membership so as to deprive such individual of employment opportunities or otherwise affect his status as an employee or applicant for employment or his employment conditions because of his race, religion, color, national origin, or ancestry.	Same.
	To discharge, expel, or otherwise discriminate against any person because he has opposed any unlawful employment practice or has filed a charge or assisted in a proceeding under the act.	Same but omits ancestry.
Commission:		Same.
(a) Membership (sec. 6a)	7 members appointed by President with advice and consent of Senate for 7 year term.	5 members appointed by President with advice and consent of Senate for 5-year term.
	1 member designated by President to be Chairman.	Same.
	No provision.	1 member designated by President to be Vice Chairman.
	do.	Chairman responsible for administrative operations of Commission.
	do.	Vice Chairman to act as Chairman in absence or vacancy.
(b) Quorum and vacancy (sec. 6b)	Member may be removed by President upon notice and hearing for neglect of duty or malfeasance in office only.	No provision.
	3 members constitute a quorum.	Same.
	Vacancy does not impair right of remaining members to exercise powers of Commission.	Same.
(c) Seal (sec. 6c)	Official seal to be judicially noticed.	Same.

Chief points of difference between the Ives-Fulton and the McGrath-Powell FEPC bills—Continued

Subject	Ives-Fulton bill (S. 174, H. R. 64)	McGrath-Powell bill (S. 1728, H. R. 4433)
Commission—Continued (d) Reports (sec. 6d).....	Annual report to Congress and President concerning cases heard, decisions rendered, names, salaries, and duties of all its employees, and moneys distributed.	Annual report to President for transmission to Congress summarizing its activities including number and types of cases handled and decisions rendered.
	Reports from time to time on cause of and means of eliminating discrimination.	Same.
(e) Salary (sec. 6e).....	Make recommendations for further legislation.	Same.
(f) Office (sec. 6f).....	\$10,000 per year.	Same.
	Principal office in District of Columbia.	\$17,500 per year, \$20,000 per year for chairman.
	May meet or exercise any power at any other place.	Same.
	May establish regional offices deemed necessary.	Same.
	May by one or more members or by designated agents, conduct any investigation, proceeding, or hearing in any part of the United States.	Same.
	Agents designated to conduct proceeding or hearing must be residents of judicial district within which the unlawful employment practice occurred.	Same.
(g) Powers (sec. 6g).....	Appoint agents and employees.	Appoint agents and employees in accordance with Civil Service Act and fix compensation in accordance with Classification Act.
	Cooperate with regional, State, local, and other agencies.	Same.
	Pay witnesses same fees as are paid in the courts of the United States.	Same.
	Furnish persons subject to act assistance on request to further compliance with act or order issued thereunder.	Same.
	Assist by conciliation or other remedial action to obtain cooperation of employees refusing to cooperate in effectuating provisions of act.	Same.
	Make technical studies appropriate to purposes and policies of act and to make results available to interested governmental and nongovernmental agencies.	Same.
	Create local, State, or regional advisory and conciliation councils as will aid in effectuating purpose of act.	Same.
	Empower councils to study problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise, good will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for development of policies and procedures in general and in specific instances.	Same, but does not include ancestry.
	Councils to be composed of representative citizens resident of area for which appointed serving without pay but with reimbursement for actual and necessary traveling expenses.	Same, but also to receive per diem as authorized by 5 U. S. C. 73b-2 for persons serving without compensation.
	Commission may provide technical and clerical assistance to councils and provide for expenses of such assistance.	Same.

Prevention of unlawful employment practices (sec. 7):

(a) Exclusiveness of Commission procedures (sec. 7a of M-P).

No provision.

Commission empowered to prevent any person from engaging in unlawful employment practice which power is exclusive and unaffected by any other means of adjustment that may be established by agreement, *cor. l.*, or otherwise; provided that the Commission is empowered to cede jurisdiction by agreement to any agency of a State, territory, possession, or local government unless the statutory provisions applicable to the determination by such agency is inconsistent with provisions of the act or has received an inconsistent construction.

Same.

(b) Filing charges (secs. 7a and 7b).

A sworn written charge may be filed by or on behalf of any person claiming to be aggrieved and a written charge may be filed by member of the Commission.

Same.

(c) Investigation and conciliation (sec. 7a and 7b).

Upon filing of a charge Commission shall investigate and if it shall determine after preliminary investigation that probable cause exists for crediting charge it shall endeavor to eliminate the unlawful employment practice by informal methods of conference, conciliation and persuasion.

Same.

(d) Disclosure (secs. 7a and 7b).

Nothing said or done during endeavors at conference, conciliation and persuasion may be used as evidence in subsequent proceedings.

Same.

(e) Time limit on filing charges (secs. 7b and 7b).

A written charge must be filed within 1 year after commission of the alleged unlawful practice.

Same.

(f) Notice of hearing (secs. 7b and 7c).

In case of failure to eliminate the unlawful employment practice and to obtain voluntary compliance through conference, conciliation and persuasion or if circumstances warrant in advance thereof, the Commission shall serve a copy of the charge upon the person allegedly committing the unlawful practice (respondent) with a notice of hearing before the Commission, a member or a designated agent at a place fixed therein, not less than 10 days after service of the charge.

Same.

(g) Participation of member filing charge (secs. 7c and 7d).

Member of Commission filing charge not to participate in hearing thereon or in trial thereof.

Same, but member may be a witness.

(h) Answer (secs. 7d and 7d).

Respondent may file verified answer and appear at hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

Same.

(i) Testimony (secs. 7e and 7f).

All testimony to be taken under oath.

Same.

(j) Attending charges and answer (secs. 7g and 7e).

Commission, member or designated agent conducting hearing to have power reasonably and fairly to amend written charge and respondent to have same power to amend answer.

Same.

(k) Commission review (secs. 7d and 7h).

At conclusion of hearing before member or designated agent entire record to be transferred to Commission which is to designate 3 of its members to sit as the Commission to hear on the record the parties at time and place specified upon reasonable notice.

Same, but adds that member or designated agent shall transfer to Commission with record his recommended decision; Commission may act itself or designate panel of 3 members to act as Commission; and Commission may in its discretion upon notice take further testimony.

Chief points of difference between the Ives-Fulton and the McGrath-Powell FEPC bills—Continued

Subject	Ives-Fulton bill (S. 174, H. R. 64)	McGrath-Powell bill (S. 1738, H. R. 4432)
Prevention of unlawful employment practices (sec. 7)—Continued		
(f) Settlement before hearing officer (sec. 7i of M-P).	No provision.	With approval of member or designated agent conducting hearing, case may be ended at any time prior to transfer of record to Commission by agreement between the parties for the elimination of the alleged unlawful employment practice on mutually satisfactory terms.
(g) Cease and desist orders (secs. 7i and 7j)	If Commission finds upon the record, including all testimony taken, that any person named in the charge has engaged in an unlawful employment practice, Commission to state its findings of fact and issue and serve on such person an order requiring him to cease and desist and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the act.	Same, but adds proviso that interim earnings or amounts earnable with reasonable diligence by the person discriminated against to operate to reduce back pay otherwise allowable.
(h) Settlement before Commission (sec. 7k of M-P).	No provision.	With the approval of the Commission, case may be ended at any time prior to filing a transcript of the record in a court by agreement between the parties for elimination of alleged unlawful practices on mutually satisfactory terms.
(i) Dismissal of complaint (secs. 7i and 7j)	If Commission finds upon the record, including all testimony taken, that no person named in the charge is engaging in or has engaged in an unlawful employment practice, Commission to state its findings of fact and issue order dismissing complaint.	Same.
(j) Modifying order (secs. 7p and 7r)	Until transcript of record is filed in court Commission may at any time upon reasonable notice, modify or set aside, in whole or in part, any finding or order issued by it in such manner as it deems proper.	Same.
(k) Administrative Procedure Act to apply (secs. 7k and 7l).	Proceeding held pursuant to sec. 7 of the act to be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act.	Same.
Judicial review (sec. 8):		
(a) Petition for enforcement (sec. 8a)	Commission may petition any circuit court of appeals, including Court of Appeals of District of Columbia, or, if circuit court is in vacation, any district court including Supreme Court of District of Columbia, within any circuit wherein the unlawful employment practice occurred, or where respondent transacts business for enforcement of order and for appropriate temporary relief or restraining order.	Same, but adds any other United States court to district court.
(b) Filing of record (sec. 8a)	Commission to certify and file in court where petition made transcript of entire record, including pleadings and testimony upon which order was entered, and findings and order of Commission.	Same.
	Upon filing court to conduct further proceedings in conformity with standards, procedures and limitations established by secs. 10c and 10d of Administrative Procedure Act.	Same, but extended to entire sec. 10 of Administrative Procedure Act.

(c) Modifying order of Commission (sec. 8b).	Upon filing court to serve notice thereof on respondent and thereupon has jurisdiction of proceeding and of question determined therein and to have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter on pleadings, testimony, and proceedings in transcript decrees enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part order of Commission.	Same.
(d) Waiver of objections (sec. 8c).....	Objection not urged before Commission, member or agent not to be considered by court unless failure or neglect to urge objection excused because of extraordinary circumstances.	Same.
(e) Additional evidence (sec. 8d).....	If either party applied to court for leave to adduce additional evidence and shows to satisfaction of court that evidence is material and there were reasonable grounds for failure to adduce evidence in hearing before Commission, member, or agent, court may order evidence to be taken before Commission, member, or agent, and made part of transcript.	Same.
(f) Order on additional evidence (sec. 8e)...	Commission may modify its findings as to facts, or make new findings, by reason of additional evidence taken and filed, and shall file modified or new findings and recommendation, if any, for modification or setting aside of original order.	Same.
(g) Exclusiveness of court's jurisdiction (sec. 8f).	Jurisdiction of court exclusive and its judgment and decree final except that they are subject to review by court of appeals, if application made to district court, and by Supreme Court of United States upon writ of certiorari or certification as provided in Judicial Code.	Substantially the same but no specific mention of writ of certiorari or certification.
(h) Appeal (sec. 8g).....	Person aggrieved by final order of Commission may obtain review in Court of Appeals of United States in circuit wherein unlawful employment practice is alleged to have been engaged in or wherein such person transacts business, by filing in such court written petition to modify or set aside Commission order.	Same.
	Copy of petition to be served upon Commission forthwith and aggrieved party to file in court a transcript of entire record certified by Commission, including pleadings and testimony upon which order complained of was entered and findings and order of Commission.	Same.
(i) Modifying order of Commission (sec. 8g).	Upon filing court to proceed in same manner as in case of application by Commission for enforcement and has same exclusive jurisdiction to grant to petitioner or Commission such temporary relief or restraining order as it deems just and proper, and make and enter decree enforcing, modifying, and enforcing as modified, or setting aside in whole or in part order of Commission.	Same.
(j) Administrative Procedure Act to apply (sec. 8h).	Upon filing by person aggrieved review in court to conduct further proceedings in conformity with the standards, procedures, and limitations established by secs. 10a and 10b of Administrative Procedure Act.	Same but extended to entire sec. 10 of Administrative Procedure Act.
(k) Stay of Commission order (sec. 8i).....	Commencement of proceedings for enforcement or review does not, unless specifically ordered by court, operate as stay of Commission order.	Same.

Chief points of difference between the Ives-Fulton and the McGrath-Powell FEPC bills—Continued

Subject	Ives-Fulton bill (S. 174, H. R. 64)	McGrath-Powell bill (S. 1728, H. R. 4453)
Investigatory powers (sec. 9):		
(a) Issuance of subpoenas (sec. 9a).....	For purposes of investigations, proceedings, or hearings deemed necessary or proper by Commission for exercise of powers vested in it Commission or member to have power to issue subpoena requiring attendance and testimony of witness and production of evidence relating to any investigation, proceeding, or hearing before Commission, member, or agent conducting such investigation, proceeding, or hearing.	Same.
(b) Administering oaths (sec. 9b).....	Commission, member or agent designated by Commission for such purposes may administer oaths, examine witnesses, and receive evidence.	Same.
(c) Place of attendance (sec. 9c).....	Attendance of witnesses and production of evidence may be required from any place in the United States, Territory, or possession, at any designated place of hearing.	Same, but includes District of Columbia.
(d) Contumacy (sec. 9d).....	In case of contumacy or refusal to obey a subpoena district court or United States court of any Territory or possession or Supreme Court of District of Columbia, within the jurisdiction of which investigation, proceeding, or hearing is carried on or within which person guilty of contumacy or refusal to obey is found, resides or transacts business to have jurisdiction upon application of Commission, to issue order requiring person to appear before Commission, member, or agent to produce evidence if so ordered or give testimony relating to investigation, proceeding, or hearing.	Same, but omits Supreme Court of District of Columbia and extends United States courts to any Territory, or "other place" subject to the jurisdiction of the United States.
(e) Self-incrimination (sec. 9e).....	Person not excused from attending and testifying or producing evidence in obedience to subpoena on ground that testimony or evidence may tend to incriminate him or subject him to penalty or forfeiture. Individual not to be prosecuted or subjected to penalty or forfeiture for any transaction, matter or thing concerning which he is compelled to testify or produce evidence, after having claimed privilege against self-incrimination, but such individual not to be exempt from prosecution and punishment for perjury committed in testifying. Immunity extends only to natural persons compelled to testify.	Same.
Orders against Government agencies (sec. 10)...	Provisions for enforcement of Commission orders by court proceeding not applicable with respect to orders of Commission directed to agency or instrumentality of United States, Territory or possession, or any officer or employee thereof.	Same, but adds District of Columbia.
	Commission may request President to take such action as he deems appropriate to obtain compliance with orders.	Same.
	President to have power to establish rules and regulations to prevent committing or continuing unlawful employment practice by person who makes a contract with agency or instrumentality of the United States (excluding any State or political subdivision) or Territory or possession, which contract requires employment of at least fifty individuals. Rules and regulations to be enforced by Commission according to procedures of act.	Same, but adds District of Columbia and contract must be for amount exceeding \$10,000 instead of requiring employment of at least 50 individuals.

	No provision.	President authorized to take action to conform fair employment practices within Federal Government with policies of act and to provide that Federal employees aggrieved by employment practice of employer must exhaust administrative remedies prescribed by Executive order or regulations governing fair employment practices within Federal Government before seeking relief under act.
Posting notices (sec. 11)	All employers and labor organizations to post in conspicuous place upon premises Commission prepared or approved notice setting forth excerpts of act and other relevant information deemed appropriate by Commission to effectuate purposes of act. Willful violation of posting requirement punishable by fine of not less than \$100, or more than \$500 for each separate offense. Nothing in act to be construed to repeal or modify Federal or State laws creating special rights or preferences for veterans. Commission to have authority from time to time to issue, amend or rescind suitable regulations to carry out provisions of act. If concurrent resolution of both Houses of Congress is passed disapproving regulation, amendment or rescission issued by Commission, the disapproved regulation, amendment or rescission not to be affected after date of passage of concurrent resolution and no regulation or amendment having the same effect as that concerning which concurrent resolution was passed be issued thereafter by Commission. Regulations to conform to standards and limitations of Administrative Procedure Act.	Same.
Veterans' preference (sec. 12)		Same, but no minimum of \$100 provided.
Rules and regulations (sec. 13)		Same, but adds Territorial or local laws.
		Same.
		No provision.
Forceful resistance to Commission (sec. 14)	Whoever forcibly resists, opposes, impedes, intimidates or interferes with member, agent, or employee of Commission engaged in performance of duties under act or because he has performed such duties to be punished by fine of not more than \$500 or imprisonment of not more than 1 year or both.	Same.
Separability (sec. 15)	If provision of act or application of provision for any person or circumstance is held invalid, remainder of act or application of provision to other persons or circumstances not to be affected.	Same.

Mr. POWELL. Senator Ives, when he was here, said that the bills were substantially the same.

Mr. MAKLOW. Yes. I would say that in certain slight respects this bill is an improvement over the Ives-Fulton bill.

I have, however, one suggestion for amendment. As you know, the present bill forbids discrimination because of race, religion, national origin, and color. It does not include ancestry.

Mr. POWELL. I think that was an oversight.

Mr. MAKLOW. I am glad to hear that, because ancestry is of importance. The reason I say that is there are discriminations sometimes against persons of Italian ancestry. They are American citizens. They are not being discriminated against because of religion, but solely because of their ancestry.

And the discrimination against Jews is often based not upon their religion but upon their ancestry and, therefore, I would suggest the bill be amended to include ancestry.

You will note from the comparison of the State laws, most of them specifically mention ancestry.

There has been some discussion as to whether this kind of bill could be forced down the throats of the South, and the argument is always made that the South would not accept this type of legislation, and it could not be enforced. I refuse to believe that. The experience in the last 10 years shows, much as the South grumbles about what they describe as northern interference, nevertheless the national policy is slowly but surely being accepted in that area.

I recall when the United States Supreme Court handed down its famous decision in *Smith against Allwright*, upholding the right of the Negro to vote in the Democratic white primary, that that certainly struck a blow to the South, but, nevertheless, by and large, that principle has now been accepted and, as the result of so-called northern interference, Negroes are now voting at Democratic primaries throughout that area.

Of course the job has not been completed yet, but nevertheless that is an instance of how national policy will be accepted by the South.

Another illustration is in the field of admission to institutions of higher learning. Ever since 1938 the Supreme Court has been handing down decisions requiring the public universities of the South to admit Negroes, or at least provide facilities the equivalent of those offered to white citizens, and progress is being made.

There are today more southern or border States which now admit Negroes without segregation into institutions and colleges and universities.

I can only mention Arkansas, Delaware, Maryland, and Missouri. And it was only this year that Indiana, which is, after all, in many respects a border State, enacted a statute to the same effect.

In Missouri there is legislation pending to break down this barrier. And so this national policy will be accepted by the South. I wanted to give you that illustration, and to say that we are in earnest, and we do not want any counterfeit measures adopted.

I will close by urging the committee to report out the bill that is now before it, and to press for a vote in the House.

After all, FEPC bills have been before this committee since 1944, and three times an FEPC bill has been reported favorably by a Senate committee on labor, and twice by this committee. Yet, in all this

period, FEPC legislation has never come to a vote in the lower or upper house, and it is time for this committee to get the bill out and insist upon a vote and get the parties to force their campaign pledges.

Thank you.

Mr. POWELL. In connection with that, it has been the policy of this committee, and its chairman, Mr. Lesinski, to move rapidly on this, but our nose-counting was too close, and the absence of one member would throw the whole business out of gear. And last week, when the President appointed Mr. Kelley to go to Europe, immediately I mentioned the serious aspect of that. However, I am very happy to say that over the week end there has been a change. Mr. Kelley is not going to Europe. We are going to act rapidly. We are going to close the hearings this week, we hope, and immediately have an executive session of this committee next week, and then bring it before the full committee. Chairman Lesinski has promised me that, under the new rule of the House, the day he takes it before the Rules Committee, he will file it immediately, and that means it will come up automatically in 21 days.

Our problem now is to see that the Republican Members of the full Committee on Education and Labor abide by their party platform, and, if we can get three or four of the Republican members to vote for this bill, we are in, and we are going to have it on the floor, therefore, automatically, with or without the consent of the Rules Committee, in July.

Mr. MASLOW. I would suggest you have a roll-call vote in the House. We have never had a roll-call vote on this issue.

Mr. POWELL. We can get a roll-call vote in the House because all you need is 20 percent of the Members to stand, and we are making plans now to have a civil-rights coalition of Republicans and Democrats. I would like to point out there are some Democrats in the situation—members of this subcommittee—Representative Perkins, of Kentucky, who comes from Andrew May's old district, for example, and who campaigned in that district for an FEPC. He came to me and said, "I am for it." So there is a new South.

Mr. MASLOW. I would say the attitude of the South has been grossly maligned by persons purporting to speak for it. I venture to suggest that the liberal opinion of the South, where the Negro does the same work as the white and gets a different rate of pay—

Mr. POWELL. No; because when that happens the white will not get his correct rate of pay. Lewis Hines testified that in Alabama the Negroes got 45 cents an hour and the whites got 90 cents an hour for the same work, and then they struck. The Negroes were willing to accept the compromise, but the whites said, "No, we will not." And now every worker, Negro and white, in that plant in Anniston, Ala., is getting \$1.35 an hour. The whites jumped up because they refused to let them use the Negroes as scabs.

Mr. MASLOW. That benefits not only the South, but the Nation as a whole.

Mr. POWELL. The first question I want to ask you is this: During the war, did not the wartime FEPC, without any enforcement powers, go into certain districts in the South and come out with Negroes working in certain industries because, even though they were segregated—this bill does not say anything about segregation—but did we not have

Negroes employed without discrimination in certain industries in the South during the war period by virtue of the FEPC, without enforcement powers?

Mr. MASLOW. I would answer it this way: There was a great uncertainty as to whether the FEPC had powers or not. We always contended the President could take over any enterprise which refused to obey directives. Nevertheless, apart from the two powers which they had, the FEPC certainly had no statutory means of obtaining compliance. Twenty percent of our case load was in the South. And we found no greater difficulty, or rather, our rate of success was no lower in the South than in the North, on the small routine cases, and, by and large, Negroes were being integrated in employment, but neither was it true that the whole pattern was an integrated plan.

They would continue to work side by side until someone pointed it out.

Mr. POWELL. Can you, for the sake of the record, and for my own edification, name any specific instance where there was a plant or industry that did not employ Negroes in the South, and the wartime FEPC consulted with them, and Negroes were employed?

Mr. MASLOW. I can name a famous one, General Cable in St. Louis. At that time we had reached the bottom of the manpower barrel. There was actually no surplus labor available anywhere. Mr. Dwight Palmer decided the only means left was the employment of Negro women in St. Louis. He stood firm and they worked in the plant throughout the war and made the essential war materials which we needed. That was our experience in many instances.

Whenever the employer was firm and stood his ground that was the result.

However, there have been some initial rumblings, but the experiment was successful.

Mr. POWELL. Are there any other cases you can cite? Take the one at Jacksonville, Fla., I am not sure—

Mr. MASLOW. It was successful on a segregated pattern as to shipping in Alabama and Florida, and one or two other States, and they had no difficulties at all—

Mr. POWELL. That is what I want. As I said to Representative Battle, from Alabama, the other day, this bill does not specify the abolition of segregation. This is against discrimination.

You found in the South as long as there was no attempt to do away with segregation the employers and the union men willingly accepted the Negro workers in the same plants and industries, maybe on a segregated basis?

Mr. MASLOW. That is correct.

Mr. POWELL. That is all I wanted on record to show that even the South has accepted the FEPC philosophy.

Mr. Joseph A. Clorety, Jr., of the American Veterans Committee.

**TESTIMONY OF JOSEPH A. CLORETY, JR., NATIONAL VICE
CHAIRMAN, AMERICAN VETERANS COMMITTEE**

Mr. CLORETY. I understand the committee has yet to hear a number of witnesses, and I prefer to let my statement go in and to make a few comments and answer any questions that the committee may have.

Mr. POWELL. The committee is agreeable to that.
(The statement is as follows:)

Mr. Chairman and members of the committee, the American Veterans Committee (AVC) takes the following position unequivocally:

(1) AVC urges enactment of H. R. 4453 to prohibit discrimination in employment because of race, creed, color, religion, or national origin.

(2) We favor the enforcement provisions of the bill and we oppose any amendment which would have the effect of removing or diluting these provisions.

(3) I respectfully urge an early report on H. R. 4453 to the full committee, and prompt consideration of this vital legislation by the full Committee on Education and Labor.

We are most hopeful that at the very least, the House of Representatives will consider and pass this FEPC legislation during the current session of the Congress.

I wish to stress that the basis for our support of this bill is the unanimous mandate of the third national convention of the American Veterans Committee, which passed the following pertinent portions of its civil-rights plank without dissent:

"1. The dignity and freedom of the individual are the foundations of democracy and every act which violates the dignity or denies the freedom of the individual is subversive of democratic principles; in keeping with this basic concept,

"2. We endorse the report of the President's Committee on Civil Rights, and we call upon the Congress, the States, and above all, the people of the United States to give substance to these great principles.

"3. We reaffirm our opposition to all forms of racial discrimination. We forbid it in our own ranks and we shall fight it in law and in practice wherever it is found. We strongly and actively oppose any laws, practices, customs, or usages whereby any person or group, on grounds of race, religion, color, or sex, attempt to prevent another from obtaining employment, from being paid at a fair rate for the service performed, from living in any area, from obtaining a free and sound education, from practicing any creed or voting or enjoying any right of citizenship.

"4. Therefore we advocate:

"(a) The repeal of Jim Crow laws and immediate end of discriminatory practices occurring under Federal jurisdiction.

"(b) The passage of fair employment practices legislation.

"(c) The elimination of poll taxes.

"(d) The enactment of a Federal Civil Rights Act which shall guarantee the right to vote, punish brutality inflicted on any person by law-enforcement officers or mob violence, and protect other civil rights.

"5. We insist that money from the Public Treasury used to provide services shall be appropriated and expended on a nondiscrimination basis."

This stand by AVC is by no means new. Our first and second national conventions were equally emphatic in recording the fact that tens of thousands of the honorably discharged veterans of World War II accepted explicitly and wholeheartedly the following proposition, which was stated by our first national chairman, Charles G. Bolte, in an address delivered January 23, 1946:

"If the Government could draft men of all races, colors, ancestries, and religions to fight a war, certainly the Government must now pass enforcement laws to guarantee these men equality of job opportunities. If Americans could fight and work together in wartime, they must be permitted to work for their livelihoods together now—and to work for peace together.

"We know how the strains of dislocations, lack of adequate housing, readjustment and joblessness can lead to intolerance and discrimination against minorities. A permanent FEPC is one form of insurance against this discrimination."

When we returned from months and years abroad, fighting foes whose despotism was characterized by weird and unholy doctrines of racial and religious superiority over others of their fellow men, we were assured by thoroughly reliable sources that wartime FEPC had worked, and that it had been a substantial factor in achieving the magnificent production record on the home front. From a purely pragmatic point of view we could expect and did expect that a program which had worked, despite small appropriations, powerful opposition to both wartime and permanent FEPC from certain elements in the Congress and in the country, and despite the intensified stresses and strains incidental to wartime conditions, certainly did justify itself. We felt that it richly merited being placed on a permanent basis. We were shocked by the failure of the Seventy-ninth and Eightieth Congresses to enact permanent FEPC legislation.

We trust that the Eighty-first Congress will embark the Nation on a program the workability of which has been demonstrated on a national scale in wartime, and in various States, which Justice Holmes so aptly characterized as laboratories for conducting economic and social experiments. Even if this legislation had not been thoroughly demonstrated to be feasible, AVC would still support it. The Constitution of the United States prohibits discrimination because of race, creed, or color. FEPC applies the constitutional mandate to equality of opportunity for employment. AVC believes that every provision of the United States Constitution should be obeyed, both as to the letter and as to the spirit, and not that we should enforce only those provisions of the Constitution with which we happen to agree.

Likewise, AVC, adhering to the immortal principles laid down in the Declaration of Independence, believes firmly that "all men are created equal" and that consequently men rob their brethren of God-given rights when they deprive minorities of equality of opportunity in education, employment, or the exercise of their civil rights, if such deprivation rests on perverted racial or religious prejudices.

As veterans, many of whom made substantial sacrifices to achieve a just peace and a stable world, and who deem ourselves trustees for our fallen comrades, we endorse wholeheartedly Wendell Willkie's ringing declaration that, "the equitable treatment of racial minorities in America is basic to our chances for a just and lasting peace."

We apply this dictum to the legislation now under consideration by this subcommittee. We endorse H. R. 4453 as an immediate, practical step toward "a more democratic and prosperous America, and a more stable world" to quote from the basic precept of AVC.

Mr. CLOONEY. First, I wish to say we are delighted to learn that the consideration of this bill is going to be expedited and we can look forward to its coming before the full committee soon and before the House of Representatives during this session of Congress.

In that connection I wish to say to the chairman when I get back to my office today the first thing I am going to do is to inform our local chapters in those districts represented by members of the full committee that this bill will probably come before them in approximately 2 weeks, and the national office of AVC deems it imperative that Members hear from their constituents and that they fully endorse the bill.

We do endorse the amendments suggested by the previous witness with respect to ancestry, and we are delighted to know the subcommittee looks favorably upon making such an amendment.

As I dictated the prepared statement that has gone into the record, and as I read it over this morning, I was struck with the possibility that some might regard it as a Fourth of July oration. It differs in one significant respect. It is not being made on the Fourth of July. We seek to apply the principles of the Constitution and the Declaration of Independence to which we directed attention.

On the matter of enforcement very little could be added to the testimony previously given before this committee, not only by the witness earlier this morning but by many witnesses.

Very few of our laws could be effective without enforcement provisions.

In this particular case we believe that once the bill becomes law that we will enjoy substantially the same experience that the State of New York has in which the enforcement provisions seldom need be invoked.

Their presence in the law, however, is essential to the full effect of an educational and exhortatory program succeeding in the case of that minority of American employers who insist on discriminating because of race, creed, color, national origin, or ancestry.

I would like to speak as an employer. As vice chairman of the American Veterans Committee I am charged with recruiting, training, and administering the work of the employees of AVC. That has ranged from 25 to 100 employees at various times.

In an organization such as ours, which prohibits any discrimination, either as to membership or as to holding of office on the basis of race, creed, color, national origin, or ancestry, obviously we would not have difficulties with respect to our employees. But over the course of 2 years of closely observing the effects on our employment program I have found none of the bogies, which, of course, have not been brought out by testimony here, but which are quietly whispered in the cloak rooms as having happened.

As a matter of fact, in one unit in my office an employee who happens to be of Nordic ancestry and a native of Texas works closely with two other members of that unit, one of Jewish ancestry and the other of Negro ancestry. Not only do they have a high rate of efficiency, but I have seen no difficulty whatever in their personal relationships.

I could go to various units and show the same pattern where we have people of various races and religions working closely together week after week and month after month. If anything, we have a higher standard of productivity and efficiency because no employee is treated as a second-class employee. That absence of a caste system has, in my opinion, brought us a higher class of employee whether he be Jewish, Negro, or whatever he may be.

I wish to thank you for the opportunity to present the views of the American Veterans Committee, and to reiterate our firm endorsement of the bill, and our pledge that we will do everything possible to expedite its passage by the House of Representatives and the Senate.

Mr. POWELL. I thank you ever so much for your statement and for your remarks. I know what it means for you to personally come before us at this time, and the chairman wishes to thank you personally.

Mr. CLORETY. Thank you very much, Mr. Chairman.

Mr. POWELL. Mr. Elmer W. Henderson, director, American Council on Human Rights.

TESTIMONY OF ELMER W. HENDERSON, DIRECTOR, AMERICAN COUNCIL ON HUMAN RIGHTS

Mr. HENDERSON. Mr. Chairman I have a statement, but in consideration of time I would like to file the statement, for the record, please, and make a very few remarks.

Mr. POWELL. Without objection, the statement will be accepted for the record.

(The statement is as follows:)

Gentlemen, I have the honor to represent the American Council on Human Rights, a cooperative program of seven national fraternities and sororities dedicated to seek the extension of fundamental human and civil rights to all citizens of our country and to secure equality of justice and opportunity to all without discrimination because of race or religion.

I speak also as one who has been closely connected with the fair employment practices movement since its beginning. During the Eightieth Congress, I was executive secretary of the National Council for a Permanent FEPC. For 5 years, I was a member of the staff of the wartime FEPC appointed by President Roosevelt, most of the time serving as regional director. The legislation before you is an outgrowth of the work of that committee.

The American Council on Human Rights considers H. R. 4453 one of the most important pieces of legislation before the Eighty-first Congress. We give it our wholehearted support and hope this subcommittee will report this bill with favor and secure speedy action by the full Labor Committee. Mr. Chairman, I believe this bill can be passed by the full House before adjournment this summer, and I hope this committee will handle this legislation with that aim in view.

I was shocked to sit in this room on the opening day of these hearings and hear Congressman Battle, of Alabama, say that the passage of the FEPC bill would cause pandemonium to break loose in industry and to suggest that riots and bloodshed would follow. I say that in spite of those political groups in the South like the Dixiecrats who are trying to turn the clock back and who are fanning the fires of race hatred that the preponderance of the evidence is against Congressman Battle's scarehead assertion. The Congressman should know that in his own city of Birmingham that in many industries colored and white workers belong to the same union locals, meet together, and work together for their common interests in a spirit of harmony.

The Congressman should know that during the war the President's Committee on Fair Employment Practices held public hearings in Birmingham; that the heads of many industries were called in to testify and as a result a marked change for the better in the employment of colored workers in that city and throughout the South took place. The Congressman should know that FEPC representatives, most of them native Southerners, negotiated with southern industrial leaders and plant managers who, whatever their inner feelings may have been, showed a surprising measure of cooperation. The Congressman should also know that in the State of Alabama alone, three of its most important newspapers gave fair news treatment and sympathetic editorial support to the job FEPC was trying to do. They were the Birmingham Age-Herald, the Montgomery Advertiser, and the Anniston Times. A review of the history of the wartime FEPC will show that it did make considerable progress in the South and, if nothing else, demonstrated conclusively that such a program as this, when intelligently handled, will work and will gain acceptance. I hope this committee will not be intimidated by Congressman Battle or anyone else. Let us have faith in the basic decency of the American people all over the country. Let us give the new South a boost by providing a framework in which an economy which gives a fair break to all, Negroes and whites together, can grow.

May I call your attention to the exhaustive hearings which were held by the Senate Labor and Public Welfare Committee during the Eighty-fifth Congress. Facts and figures were then presented to show the great need for this legislation and the popular support it had. It was shown that Negroes and other minorities who had labored so hard and well in our war plants during the war were being fired at an alarming rate and that there was a reversion in employment policy taking place back to the prewar condition where jobs were granted not on the basis of merit and fitness but on the grounds of race or religion. On the basis of the information which has come to us since those hearings there has been no change in that basic trend and it is in fact accelerating.

But the present need for this bill is greater than ever as many authorities today fear an increasing rate of unemployment. In such a climate, with sharp competition for every job, race tension will inevitably increase. This can be mitigated to a large degree, we believe, if certain fundamental principles such as contained in this bill could be put into law.

In the past few years, 10 States have enacted FEPC laws. Outside of those States the cities of Philadelphia, Cleveland, Chicago, and Minneapolis, among others, have enacted FEPC ordinances. There is a growing recognition of the necessity and value of this legislation throughout the country. But job discrimination is a national problem and can best be coped with by national legislation. The principle of FEPC was contained in both party platforms in 1948 and was roundly endorsed by the election results. Please note also that the Dixiecrats made opposition to FEPC the keystone of their program and they were repudiated. A very significant survey was made by Fortune, the conservative business publication, in September 1948 which indicated that public opinion was increasingly supporting FEPC. Much to the surprise of Fortune, 30 percent of white Southerners interviewed favored this legislation.

We are not predicating our support of this bill solely on the ground that the racial minority that we represent has suffered so long and hard from job discrimination. But we believe the principle of equality of employment opportunities is a good thing for the country as a whole and an eminently practical

course for employers to follow. Look at the millions of man-hours of production wasted and lost to American industry because of race discrimination. Surely that is not good business. Look at the tremendous potential market for American goods that exists right here. Is it good business to allow that market to be stagnant when the type of fair play advocated here would bring it to life? Look at the tremendous advantage our Nation would gain in morale and inner strength if all groups felt they had an equal chance to gain some of the benefits of living in a democracy.

The opponents of fair employment say this bill is unconstitutional. But it is clear that this measure is in the stream of other social and labor legislation enacted under the interstate commerce clause and the fourteenth amendment to the Constitution and have stood the test of constitutionality.

Some opponents have gone to the length of comparing the modern factory with a social club and saying this bill would infringe the right to pick one's own associates. Any one remotely familiar with the facts of economic life is aware that with few exceptions industrial workers are not accorded the privilege of picking and choosing who they will work with. Nor does a factory manager expect that he can run his plant with workers with homogeneous tastes and backgrounds.

They contend we are trying to legislate against prejudice. But that is not the aim of this bill at all. We wish to legislate against discriminatory behavior—the overt manifestation of prejudice that infringes the basic rights of others.

In recent Congresses, the FEPC bill has been the victim of political maneuver. We hope that the Eighty-first Congress will live up to its responsibilities and its mandate. Many Members of the House and the Senate were elected on platforms that included FEPC. They gained support because of it. They owe a solemn obligation to fight this thing through. The record is being made now. We agree with our great President, Harry S. Truman, that campaign promises are supposed to mean something.

We also agree with a statement that he made last week "that it is much better to go down fighting for what is right than to compromise your principles."

Mr. HENDERSON. I was shocked, along with, I am sure, a lot of other American citizens, to hear Congressman Battle say that the passage of the FEPC bill would create violence and pandemonium in the South. I happened to work with the Fair Employment Practices Committee during the war, and I had something to do with the hearings that were held in Congressman Battle's own city, and from the reception the committee received there it would be my considered judgment and opinion that the passage of this bill would be accepted today, just as the hearings of the committee, and, I think, the beneficial results that flowed therefrom were accepted in the city of Birmingham in 1942.

If anything, as Mr. Maslow who preceded me has said, conditions in the South have improved considerably in recent years and, consequently, if this thing was accepted in Birmingham in 1942 I think it would be accepted in Congressman Battle's own city today.

Mr. Chairman, for the record, I would like to submit an editorial that was taken from the Birmingham News, a prominent daily paper, dated Thursday June 18, 1942, entitled "Elemental Fairness." This editorial indicates the importance of the work of the Fair Employment Practices Committee, and the necessity for giving serious consideration to eliminating discrimination in employment. I wonder, Mr. Charman, if I might have this back when the reporter is finished with it.

Mr. POWELL. Yes, it may be returned to you.
(The editorial referred to is as follows:)

ELEMENTAL FAIRNESS

Today the President's Committee on Fair Employment Practice opens 8 days of hearings in Birmingham. The purpose of this Committee is to eliminate and prevent discrimination and unfairness in employment on racial and religious grounds. The members of the Committee include men broadly of major and re-

ligious and economic groups in the population, and of sectional viewpoints as well.

At the same time they are truly national in their representation. Among them are men who have been outstanding for their efforts in behalf of racial and religious tolerance.

The hearings in Birmingham cover employment practices in six Southeastern States. For some time now, representatives of the Committee have been investigating employment conditions in this part of the country, and the hearings will have to do with a number of complaints which have developed.

It is a source of gratification to the Birmingham district, incidentally, that representatives of the Committee have found relatively little evidence of discrimination and unfairness here, and have remarked that the Birmingham industrial area probably has less of this sort of thing than any other community in the South.

That, of course, does not mean that our record in this respect is anything like perfect; but it does signify that the earnest and intelligent efforts in behalf of racial and religious understanding and cooperation which have been in progress here for years, through various channels, have borne fine fruit. In this industrial district there has been a real achievement in behalf of racial tolerance and fairness in employment which is vastly to the credit alike of the white and colored groups, and of management and labor. There has been notable progress, too, in the matter of religious tolerance in Birmingham over a long period of years.

This means that Birmingham, as a community, has been a leader right along in affairs concerning racial and religious understanding and cooperation. Since this is true, it seems especially appropriate that the hearings of the President's Committee on Fair Employment Practice in the Southeast should be held in Birmingham, for the aim of this Committee is to further this very cause in which this community has shown itself to be a leader. Birmingham and the Committee seem well met, then.

Not only should the Committee find a sympathetic and hospitable atmosphere for its hearings here, on that account; the same atmosphere should augur well for the effectiveness of the Committee's work in this area. In other words, Birmingham, having made notable progress in that direction on its own, should be especially eager to profit from the Committee's efforts.

Of course, there are always some people everywhere who are disposed to take a suspicious or prejudiced view of an undertaking of this kind. Here, happily, we surely can say, such persons are decidedly in the minority.

The work of the Committee, which already has had effective results in other parts of the country, notably in the Middle West, naturally is concerned primarily with the aim of utilizing the Nation's manpower as fully as possible in the war effort. But it is concerned also, in the long-range view, with fair employment practices after the war, and for all time to come. It is simply elemental fairness to be fair to all racial and religious groups in opportunities for working and making a living. That is one of the things this war is being fought for.

Mr. HENDERSON. I would also like to submit an editorial from the Birmingham Age-Herald, of Wednesday, June 17, 1942, entitled "Our Common Aims."

And this editorial, as the previous one, does indicate the importance of the South as well as the North taking some action on this question of discrimination in employment.

(The editorial referred to is as follows:)

OUR COMMON AIMS

The broad purposes of the President's Committee on Fair Employment Practices, in its general efforts throughout the Nation and particularly in the hearings to be held in Birmingham beginning tomorrow, surely must command the active support and concern of the American people. For those purposes are of major importance in the prosecution and winning of the war, in the attainment of the human progress and peace for which we all hope after the war. And those purposes are urgent, as anyone familiar with the world situation and our national needs must readily realize.

The Committee's objectives, which certainly are the Nation's objectives, may be briefly summarized, we think, as seeking the full utilization of the human

resources and power of all our people, and the maximum fidelity to the fundamental ideals of this country--the fundamental ideals for which the war is being fought.

These two outstanding purposes, obviously, are closely related. If we are to develop our full strength, we must overcome the discrimination against minorities in employment practice, which makes for disunity and weakness.

Such discrimination against any minority among us must be vigorously, forthrightly combated.

Such discrimination must be dealt with, wherever it exists.

Such discrimination must be fought, whoever is guilty of it, deliberately or unconsciously.

The broad purposes of the Committee which are the purposes of the President, are unqualifiedly endorsed by this newspaper. In our opinion they are, we repeat, strongly supported by the American people. Yet it remains a fact--a disquieting fact--that discrimination does exist in a disturbing degree against minority groups in war-work employment practice, in the provisions for training for war industrial service. It exists, in unfortunate measure, for example, against Negroes.

This discrimination, in part at least, may be due to persons who unquestionably support the broad, general purposes of the Committee and the National Government. Such citizens may not even see the contradiction between their practices and their desire to enhance national strength and further the orderly attainment of the Nation's basic ideals.

Nor is the practice of discrimination confined to any one group. Employers, organizations of other workers, officials, other groups have been involved.

In some instances, honest perplexity about difficult problems in human relations is responsible for action, or lack of action, that, however well intended, means discrimination. In some instances, timidity is responsible. In others selfishness. In still others plain prejudice.

Now, in our opinion, this situation is not desperate or hopeless. There are many encouraging aspects of it. Here in Birmingham, for instance, we have in recent years made fine progress in such matters, although we are far from solving all our problems. The national situation, however, is serious and important enough to call for active, courageous, and determined efforts to improve it. That is the job of this Committee.

In view of the world situation, and the increasing importance of racial relations generally and in view of our urgent national needs, this job is clearly one of primary significance and importance.

As a Nation, as a people, we certainly must face these inescapable problems squarely, creatively, if we hope to prevent more serious problems to come. The Committee is our agency for taking the lead in this work, although all citizens have a clear responsibility to contribute to it through their thinking, their attitudes, their actions.

The job of the committee is complex and difficult, even under, relatively, the most favorable conditions. It can be made much more difficult, of course, and the welfare of the Nation--indeed of the entire world--can be further hazarded, when world crisis is already so tragically acute, by misunderstanding and misconception of the purposes of the Committee.

The circulation of irresponsible reports and lies about the Committee's work, its methods, and its aims, can do great damage to the entire undertaking. It can needlessly arouse old fears, feed old prejudices. Let any and all who might unwisely or heedlessly contribute to any such influences be on conscientious and patriotic guard against so doing.

The best antidote for that sort of disservice to the Nation is a clear understanding of the basic purposes of the Committee.

The Age-Herald has full confidence in the basic aims of the Committee. It believes that it is seeking the broad purposes we have outlined. Of course, the Committee may make some mistakes in dealing with such a complex problem. But if it has, or if it does, it should not be judged on those alone, but in the light of its full record.

The Committee is not, in our opinion, trying to tell employers and unions and local officials and groups just how to run their respective affairs in detail. But it must, in fidelity to duty, pursue resolutely and forthrightly its central purposes.

That calls for inquiry into cases where discrimination, deliberate or unintended, is alleged to exist.

That calls for the promotion of understanding and cooperation.

In dealing with these intricate and pressing responsibilities, the Committee is entitled to an earnest, fair, thoughtful effort on the part of all citizens to understand what is being sought—what must be sought—and to help in the achievement of the momentously important purposes, which are not only this committee's but should be the urgent concern of us all—every last one of us who strives for victory in this war and triumph in subsequent peace and progress.

Mr. HENDERSON. Mr. Chairman, I would like further to have included as part of the record a letter which was sent to Senator Arthur Vandenberg, in the Eightieth Congress, signed by very prominent industrial leaders throughout the country, in which they called upon the Senate of the United States to pass the fair employment practices bill that was pending in the Eightieth Congress, which was similar in many respects to this particular bill, and I think the support that is indicated there from industrial leaders is important in this connection.

Mr. POWELL. Without objection, it will be accepted.

(The letter referred to is as follows:)

FEBRUARY 15, 1948.

HON. ARTHUR H. VANDENBERG,
President pro tempore, United States Senate,
Washington, D. C.:

The undersigned American citizens believe that passage at this session of the Congress of a national act against discrimination in employment is important to the welfare of the country. We note with satisfaction that the Ives-Fulton bill has been favorably reported out by the Senate Committee on Labor and Education and we ask you, and through your own colleagues, to use your fullest influence to expedite its passage by both Houses of Congress.

The great majority of employers in the United States, together with their fellow Americans, believe in the principle of nondiscrimination in employment. They know that such discrimination is uneconomic, in that it results in an unsound use of manpower and retards the development of purchasing power. They know it is undemocratic and un-American, being contrary to the principles upon which our Government was founded and upon which it endures. They know, finally, that it weakens the position of the United States in the eyes of the world and in the war of ideas between freedom and totalitarianism.

In our judgment the Ives-Fulton bill, if enacted into law, will substantially advance the cause of nondiscrimination in employment. It will strengthen the hands of those who believe in its purposes and it will tend to bring into compliance those few who do not. Our judgment in this respect is based in part upon the successful working of very similar laws in New York, New Jersey, Massachusetts, and other States. We like the reliance which the bill puts upon education and conciliation. On the other hand, we recognize the necessity of governmental sanctions when conciliation breaks down.

We do not believe that passage of this bill will eliminate prejudice from America. But it will be an effective step along the road. For this reason, we have formed ourselves into a committee to advocate its adoption. We hope you will do all in your power to help toward this objective.

William L. Blatt, president, SKF Industries; Allen W. Dulles, Sullivan & Cromwell; Paul G. Hoffman, president, Studebaker Corp.; Eric Johnston, president, Motion Picture Association; Henry R. Luce, Time, Inc.; Dwight R. G. Patner, president, General Cable Corp.; Martin Quigley, president, Quigley Publishing Co.; Nelson A. Rockefeller; Anna M. Rosenberg; Beardsley Ruml, chairman of board, R. H. Macy & Co.; Spyros P. Skouras, president, Twentieth Century-Fox Film Corp.; Paul C. Smith, general manager, San Francisco Chronicle; Herbert Bayard Swope; Charles H. Tuttle, Breed, Abbot & Morgan; Oren Root, Jr., chairman.

Mr. HENDERSON. Mr. Chairman, I want, on behalf of my organization, to commend the chairman and members of the subcommittee on the manner in which they have conducted the hearings so far.

And I, like Mr. Clorety, was very pleased to hear that at the conclusion of the hearings there is a possibility this might be voted out

of the committee, and a vote might be taken in the House of Representatives. I would like to assure the full and complete support of our organization in furthering that very important aim.

One last comment, Mr. Chairman. There have been many voices raised in opposition to this bill, and I have included in the record—or, rather, in my statement—some of the answers to points of opposition, especially those dealing with the questions of constitutionality. I do not think, Mr. Chairman, that that is a meritorious point of opposition. The fair employment practices bill is in the stream of the other social and labor legislation which has been passed by the Congress of the United States in recent years, and which has stood the test of constitutionality in the Supreme Court of the United States, and I do not think there should be any fear or that you should take too serious thought of those arguments that are constantly raised against this and other types of beneficial legislation on the grounds that they would be unconstitutional.

In fact, I would think that this bill would probably be more readily and obviously constitutional than any other part of the civil-rights program.

So, in closing, Mr. Chairman, I would like to call to your attention an important statement that President Truman, who is one of the foremost advocates of this bill, made recently about campaign promises.

As the chairman very well knows, and as already indicated, both of the great parties are on record for this legislation, and many of the Members of the House and the Members of the Senate campaigned on the issue of FEPC; and we believe, with President Truman, that campaign promises are supposed to mean something, and we hope those members who did so will go down the line fighting for this FEPC.

Mr. Chairman, may I again commend you on the way you have conducted the hearings. There are many more things I could say, but I know the record is full at present.

Mr. POWELL. Mr. Henderson, you have done a great service to the committee, and to the chairman, by presenting in your statement and in your testimony these editorials from papers in Alabama, and detailing here industries in Congressman Battle's own city where Negroes and whites are working together without any trouble, and without any pandemonium.

Mr. HENDERSON. That is right.

Mr. POWELL. Can you offhand list any of the industries and companies in Birmingham? If not, could you get together a few of them and submit them for the record?

Mr. HENDERSON. I can, and I will before the hearings are completed, give you a list of some of the industries in Birmingham that I know are employing Negroes and whites.

Of course, the situation is not perfect there or else we would not be advocating this bill, but it is far from what Congressman Battle indicated that it was, and I would also like to say, Mr. Chairman, that in the city of Birmingham and throughout the State of Alabama many of the labor unions in that State have both colored and white members who meet together and are working together in the interests of their own common good. The United Mine Workers is an example; the United Mine, Mill, and Smelter Workers is another example; the United Steel Workers is another example, and there are others, and the evidence is all against what Congressman Battle said.

Mr. POWELL. I agree with you there.

Mr. HENDERSON. I will try to get you the names of specific industries in the city of Birmingham.

Mr. POWELL. Your organization represents about how many members?

Mr. HENDERSON. About 50,000.

Mr. POWELL. All of them are colored men and women?

Mr. HENDERSON. Yes.

Mr. POWELL. And are some whites in it, too?

Mr. HENDERSON. There are a few.

Mr. POWELL. Thank you, Mr. Henderson.

Mr. HENDERSON. You are quite welcome.

Mr. POWELL. Miss Nancy Wechsler, of the National Council of Jewish Women.

We are happy to welcome you, Miss Wechsler.

Miss WECHSLER. Thank you.

TESTIMONY OF MISS NANCY WECHSLER, REPRESENTING THE NATIONAL COUNCIL OF JEWISH WOMEN

Miss WECHSLER. The National Council of Jewish Women is grateful for this opportunity to express to the Congress its support of H. R. 4453 to prohibit discrimination in employment because of race, color, creed, or national origin. Our organization which is composed of 83,000 women in 223 sections throughout the country strongly supports both the objective of this bill and the methods chosen in H. R. 4453 for dealing with the problem.

This committee has heard testimony from many groups qualified both to analyze and describe the problems of discrimination in employment in this country. Our organization has carefully considered this question and has been on record in support of fair-employment-practice legislation since 1943. In supporting this action, we are acting in accordance with a resolution unanimously adopted by our convention. That resolution has been filed with the committee, and we request its inclusion in the record of these hearings. We do not feel that it is necessary for us to recapitulate at this stage in the hearings the overwhelming evidence of the existence of job discrimination and of the serious inroads which it makes upon our democratic society.

We feel rather that, as a woman's organization, we might bring to the attention of the committee the effect of job discrimination on the homes of the millions of people who are affected by it. Although we are a group of women who are members of one of those groups designated as a "minority," we do not appear here as special pleaders for that group or for any other defined group. Rather we wish to call attention to the problems which job discrimination create in the minds and souls of all Americans and which are particularly evident to the women of this country.

In a period in which the values of democratic procedures and principles are constantly faced with a challenge of totalitarianism of either the right or the left, it seems to us essential that the parents of America and particularly the women who have special responsibilities for training children not be handicapped in attempting to raise their children in the best American tradition by the existence of discriminatory

practices which contradict the fundamental principles of that tradition. Yet, all over this country it is impossible to hide from growing young Americans the facts that their opportunities are hedged around with special restrictions and that the ideals of equality of opportunity either do not apply to them at all or apply to them to a lesser degree than they do to others. They inevitably hear that others, not stigmatized by an unpopular color, a minority religion, or the fact that their parents or even grandparents have come from the "wrong" countries, have greater opportunities. We believe that tribute should be paid to the people, particularly members of the so-called visible minorities against whom discrimination is most frequent, for the great strides which they have made, not only in overcoming the handicaps which are placed upon them, but in maintaining the spirit of American democracy even in face of these unjust barriers. But it cannot be denied that job discrimination is a potent cause of disillusionment and even cynicism among those against whom it is practiced. Furthermore, it leads to lessened appreciation of the true meaning of the American heritage among some who are not members of minority groups. In short, job discrimination threatens the moral strength of all our people.

We think that these facts as well as all of the other facts which have been so ably brought to the attention of this committee show the urgent necessity for legislation to curb job discrimination wherever possible. We are convinced that such legislation is workable; that it is fair, and that it will contribute greatly to the strength and vitality of American democracy in the years to come. We strongly urge the committee to endorse this bill and hope that it will successfully pass the Congress.

Thank you.

Mr. POWELL. Thank you so much.

I have said publicly in my pulpit, and I say it now, that if women had their way in our American life we would not need things like FEPC.

Miss WECHSLER. I hope that is true.

Mr. POWELL. And I hope my male colleagues in the House will not feel bad, but I always personally feel that when there is a question of moral issue before the House of Representatives the vote of the women, irrespective of their party, is always a better vote than the vote of the male members of the House.

I want to thank you for coming and adding your voice to the hundreds who have already testified.

Miss WECHSLER. Thank you.

(The resolution referred to is as follows:)

Whereas the members of the National Council of Jewish Women, in accordance with their traditions as American citizens and as Jews, uphold the principles of equality of all people regardless of race, color, creed, or national origin; and

Whereas our democracy is enriched by the contributions of all racial, religious, and cultural groups; and

Whereas discrimination violates the fundamental principles of our Constitution and creates hardship and injustice: Therefore be it

Resolved, That the National Council of Jewish Women rededicate itself to the support of interfaith and intercultural education programs, community action, and legislative measures designed to oppose discrimination, to improve human relations, and to safeguard the rights and privileges of all peoples.

Mr. POWELL. The Jewish War Veterans.

**TESTIMONY OF BEN KAUFMAN, NATIONAL EXECUTIVE DIRECTOR,
JEWISH WAR VETERANS OF THE UNITED STATES**

Mr. KAUFMAN. Mr. Chairman, my name is Ben Kaufman. I am executive director of the Jewish War Veterans of the United States.

Mr. POWELL. Do you wish to read your statement or file it?

Mr. KAUFMAN. I would rather read it.

Mr. POWELL. Very well.

Mr. KAUFMAN. In connection with H. R. 4453, I have the honor to represent the Jewish War Veterans of the United States of America, which is the oldest veterans' organization in the country next to the Grand Army of the Republic and the Army and Navy Union. It was established in 1896 by Jewish veterans of the Civil War who fought in the armies of both the North and the South. Today it has 650 posts all over the United States, with approximately 120,000 members.

I am authorized to present the views of the Jewish War Veterans of the United States by virtue of resolutions passed by its national executive committee, and I appear before your honorable committee upon express direction of our national commander, Myer Dorfman of St. Paul, Minn.

I shall not repeat, in this brief statement, arguments which have been presented to your committee by other witnesses with reference to various details of the bill, but desire to make a few comments from the standpoint of a veteran—one of those 18,000,000 veterans of our last two wars who fought for our democratic way of life; one of those 600,000 Jewish veterans of World War II who returned, leaving behind 13,000 Jewish dead with the dead of other Americans of all religious faiths.

In considering the implications of any legislation to end discrimination in employment and other fields of human endeavor, I should like to point out to this committee that the Jewish War Veterans of the United States has expressed its ardent support of such policies as the European recovery program and the proposed North Atlantic Pact. We were prompt to voice that support because we conceive these measures to be important segments of a total pattern designed to guarantee this country's security and stability. As veterans, we are perhaps more sensitive to the needs of our Nation's security than the average nonveteran.

It requires an unusual lack of perception not to recognize that we are engaged today in a conflict of ideas and moral values on a scale at least as great as the war we finished fighting less than 4 years ago.

In the first World War—in which I fought—and in the second war—in which younger members of my family bore arms—we found that the enemy did not resort to guns alone in seeking to defeat our troops. The artillery barrage was matched by the propaganda barrage. The enemy was as eager to exploit a weakness in our social system as he was to take advantage of any weakness in our combat positions.

The "hot" war nazism and fascism were waging against us 4 years ago has been supplanted by a "cold" war being waged against us by communism today. The primary weapons in this war are not guns; they are political and social concepts.

In this conflict, we of the Jewish War Veterans are convinced that legislation to seal off one of the few remaining gaps in our social

system can be as important to our country's security as the North Atlantic Pact and the European recovery program. For, if we cannot show that the guarantees of our Constitution and our Bill of Rights mean exactly what they say, we shall be risking a major defeat in the field of ideological combat. We shall permit to go unanswered the crafty lies of those who slander representative government and foster the vicious untruth that man's only hope is to believe and behave by the dictates of a totalitarian state. Most of all, we shall run the risk of encouraging a sinister handful within our gates who can only thrive on the frustration and despair that comes with the denial of the basic human rights upon which our country was founded.

In advocating enactment of H. R. 4453, our organization is mindful that equality of opportunity has produced outstanding leadership during times of national emergency. Veterans are keenly aware that the men who led every echelon of our country's forces to victory in both World Wars were Americans of every racial and religious background who rose to leadership through individual ability manifested during periods when the very existence of our country was at stake. In those hours of crisis, it would have been unthinkable to question the racial origin or religious belief of an American chosen by his superior officers to lead a combat unit in the field. The sole basis for such a choice was merit. The only question to be resolved was whether the individual singled out for leadership was capable of assuming responsibility for efficient and successful accomplishment of assigned missions. The record of American achievements in military combat throughout our history demonstrates the wisdom of this principle of selection. By ordinary adherence to American concepts of fairness and equality we have kept our country free and secure since the day we became a republic because—as soldiers—Americans were not singled out for discrimination in their right to fight and die for their country's preservation.

It seems to us tragic that—as veterans—so many of these same Americans returned to find themselves challenged in peace, not on issues of individual competence or character but on grounds relating to the religious beliefs or origins of their forbears. Gentlemen, the American serviceman who listed his religious faith on his identification tags did so only against the possibility that he might lose his life in the common effort for his country's survival. None of those who fell was ever denied a military grave marked by the symbol of the faith in which he lived. But we have been less considerate of thousands upon thousands who survived war. To these, some employers, some landlords, and some educators have denied the equality in peace that was readily conceded in war.

Americans have never gone to war as Catholics, Protestants, Jews, or Negroes. They have gone to war as Americans. It is in the pursuit of peacetime employment, housing, education, and other social and economic necessities that thousands of veterans have been confronted with racial and religious distinctions that were never imposed on them when they were called upon to serve their country and all its people.

The Jewish War Veterans of the United States has come here today in the deep conviction that legislation of the kind proposed in H. R. 4453 is no more than worthy and legitimate payment of a promissory note to millions of American veterans who took up arms in defense

of their country in the belief that constitutional guaranties of equal justice and equal opportunity were more than fair compensation for the equal hazards of fighting a war.

Our organization is unanimous in its belief that this Congress has before it a prime opportunity to provide the world with a conclusive and unassailable demonstration of genuine Americanism in action. We are convinced that enactment of H. R. 4453 can serve as a final refutation to the sinister propaganda offensive being waged on a global scale in a determined effort to discredit our way of life.

Gentlemen, the privilege—yes, the responsibility—of closing one of the last remaining gaps in the structure of our national security is within your grasp. Failure to take affirmative action on this vital issue will be construed, unfortunately, as a tacit endorsement of the existing undemocratic and un-American practices which H. R. 4453 seeks to correct.

The Jewish War Veterans of the United States strongly urges your honorable committee to do everything possible to speed the passage of this legislation.

Thank you.

Mr. POWELL. Thank you ever so much. It is very interesting to know that the Jewish War Veterans fought on both sides.

Mr. KAUFMAN. Yes, sir; there were over 10,000 of us in the Civil War, sir.

Mr. POWELL. I appreciate your testimony. Thank you very much.

We are pushing along because the House of Representatives is going to operate under the 5-minute rule any minute now, and when it operates under the 5-minute rule all committees must adjourn.

The last witness is Dr. Felix Cohen.

I would like to say this afternoon at 2 o'clock, or as close to 2 o'clock as the operation of the 5-minute rule will permit, Congressman Brooks Hays, of Arkansas, will appear to offer a counter proposal to this committee as to the FEPC proposal for the South. We are going to give him ample time to develop it, and we hope to meet at 2 o'clock, if the 5-minute rule permits. If the House is under the 5-minute rule we will meet as soon as the 5-minute rule comes to conclusion.

Dr. Cohen.

TESTIMONY OF FELIX S. COHEN, REPRESENTING ASSOCIATION ON AMERICAN INDIAN AFFAIRS

Mr. COHEN. Mr. Chairman, I appreciate the privilege of appearing here on behalf of the oldest minority group, the Indians.

I want to reciprocate the courtesy of the committee by limiting myself to matters which the committee has not heard, as far as I know, from any of the witnesses who have been testifying on this subject in the last 6 years.

Mr. POWELL. Do you want to file your statement?

Mr. COHEN. I should like to file it; yes, sir.

Mr. POWELL. Without objection, it is so ordered.

(The statement is as follows:)

I appear here today, through the courtesy of this committee, to testify on behalf of the Association on American Indian Affairs, Inc., on H. R. 4453. This organization, with offices at 48 East Eighty-sixth Street, New York 28, N. Y., represents

people in almost every State of the Union who are interested in promoting a better understanding of the needs and problems of our Indian fellow citizens. The president of this organization is Oliver LaFarge, of Santa Fe, N. Mex. The honorary president of the organization is Dr. Haven Emerson, of New York City. For 25 years the chief activity of this organization and of the various associations which combined in 1937 to form the Association on American Indian Affairs, Inc., has been that of educating the American public as to the needs and problems of our first Americans, and, in particular, this organization has tried to educate the American public concerning the various discriminatory schemes and devices, public and private, which have been used to deprive the Indian of his fair share of the benefits of American life.

My own qualifications to speak on the subject of the fair employment practices bill can be summarized very briefly. In the first place, I served for some 14 years in the Department of the Interior as legal adviser to Secretary Ickes and to Secretary Krug, and during that time specialized in the various racial problems which fall within the jurisdiction of the Interior Department, particularly Indian problems, problems of discrimination and segregation affecting the Negro, and similar problems affecting Puerto Ricans, Alaskan natives, Hawaiians, and Americans of Japanese descent. In the second place, as an outgrowth of that experience, I assisted informally, at the request of various Senators and Congressmen, in the drafting of the various bills dealing with this problem of job discrimination in the Seventy-eighth, Seventy-ninth, and Eightieth Congresses. Finally, as a private attorney both before and after my years with the Government, I have specialized in the legal problems of minority groups. Among the minority groups which I now serve are the Consultative Council of Jewish Organizations, which serves as an adviser to the United Nations on Jewish problems, and the All-Pueblo Council, which is an organization of 18 Indian tribes or pueblos in the Southwest established in 1935 for the purpose of protecting Indians against attacks on their human rights and their property rights; also among my clients are the American Jewish Committee, the San Carlos Apache Tribe, the Oglala Sioux Indians of South Dakota, the Hualapai Indians of Arizona, the Omaha Indians of Nebraska, and various native communities in Alaska.

I am appearing today on behalf of the Association on American Indian Affairs, of which I am general counsel, but I think I may say that the position which the Association on American Indian Affairs takes with respect to fair employment practice legislation is a position which is supported in principle by every other minority group with which I have ever had any professional contact.

There are two reasons why the Association on American Indian Affairs appears before this committee.

In the first place we believe that this committee is faced with one of the most difficult problems of American statesmanship and will want to take account of all phases of our national experience that bear on its solution. We think that our experience on this continent with our oldest minority—an experience that stretches across four and one-half centuries—has a very important bearing upon our choice of effective measures in dealing with the general problem of discrimination.

In the second place, we appear before this committee because the American Indian even today is a victim of serious economic discriminations and we hope this committee will do its part to eliminate those discriminations.

On the first point, the bearing of our experience with Indian discrimination on the general problem which this committee faces, I should like to call attention to the fact that discrimination against the Indian has not been primarily a matter of social segregation. Discrimination against the Indian has almost always taken the form of denying to the Indian the right to engage in the economic pursuits open to his fellow countrymen. We thus have a good case study of the consequences of economic discrimination. This economic discrimination began when we denied the Indians the right to sell their land or furs or agricultural produce to customers of their own choosing or to hire agents or managers of their own choosing. Insisting that they could sell only to the United States or its agents or Government-approved traders and could not employ unapproved attorneys or real-estate agents or business management to advance their own economic interests. That discrimination resulted in the Indians being forced to sell their lands, their furs, their fish, their timber, their agricultural produce, and their minerals at prices which were generally far below the market prices at which their white neighbors could make such sales. The long-range effect of such discrimination has been to make of our Indian reservations hos-

plains for the victims of our oldest social disease on this continent—discrimination. I have seen on a number of these reservations conditions of helplessness, misery, starvation, and preventable deaths which could not be duplicated in the worst city slums in America—not even in the slums of Puerto Rico, which I have visited. One would have to look to China or India for parallels. And these centers of misery and starvation infect surrounding communities, keeping wages down, and add to local and national tax burdens. That is the end result of centuries of economic discrimination. That is the end result to which similar discriminations in the economic field can reduce any segment of our population. And that is a result which we know this committee wants to avoid.

Now the second and final point which I want to make is more specific and relates to the impact of the particular bill before this committee on the American Indian.

It may seem strange to some members of this committee, particularly to those whose constituencies do not include very many Indian tribes, that Indians should have a special interest in nondiscriminatory employment. The general picture of the Indian is a romantic and unrealistic picture of somebody with a war bonnet on a horse, somebody at the end of a trail, who wouldn't know what to do with a job if he had one. Indeed it may come as a surprise to some members of this committee that Indians are subject to economic discrimination to this day. In some parts of the country is it rather considered a distinction to carry in one's veins the blood of Pocahontas or some other distinguished Indian chief or princess. In any event the common opinion is that the Indian is an insignificant and vanishing minority.

Now, in fact, the Indians of our country—more than 450,000 of them—about as many as the total Jewish population of Germany when Hitler assumed power—are the most rapidly increasing racial group in the United States. And the economic discriminations practiced against them today are probably more serious than those practiced against any other minority group. Conditions are particularly acute in Alaska. For example, under the Tongass Act of 1947, in southeastern Alaska, Indian timber may be sold by the Forestry Service at its discretion as to buyer and price and the Indians may not receive any part of the proceeds unless they carry through expensive litigation over a period of many years to win it. Under present laws and regulations, Indian fishing sites in Alaska may be and are given into the control of non-Indian canning companies without compensation to the Indians. In one extreme case, a Government agency controls the disposition of the fur catch of a valuable native fur ground, and year after year practically all the sealskins in Alaska are turned over to a certain fur company. The native owner of the hunting ground may receive as little as \$176 a year out of the millions made in this transaction by the Fish and Wildlife Service and the Foulke Fur Co.

I mention Alaska as an outstanding example of systematic economic discrimination, because only a hundred years ago these natives were among the wealthiest people in America and they have now been pushed down to the bottom of the economic ladder.

I might also mention that in two States of the Union they are not even allowed to stand on the lowest rung of the economic ladder. An American citizen who is otherwise entitled to social-security benefits—add to the aged, add to the blind, or add to dependent children—cannot receive such benefits in Arizona or New Mexico if it is discovered that he is a member of any Indian tribe. In that connection I should like to quote very briefly from a petition to the President, to Secretary Krug, and to Federal Security Administrator Ewing by the Association on American Indian Affairs, and signed by its president, Mr. Oliver LaFarge, and its honorary president, Dr. Haven Emerson: "By such arrogant racial discrimination 100,000 American citizens are excluded from the benefits granted all others and their right to live is thereby seriously impaired. This callous denial of rights guaranteed, by national law has intensified suffering among American Indian people in New Mexico and Arizona for the past 14 years. These people are among the most deprived in our country. . . . The conscience of Americans cannot tolerate the racial discrimination by which the States of New Mexico and Arizona violate the social-security law and deal without justice or humanity with thousands of their citizens of American Indian blood."

These things I mention not because the social-security problem is within the jurisdiction of this subcommittee, but merely to indicate that Indians are, at least in some parts of our country, victims of a peculiarly devastating set of prejudices and economic discriminations. I know of no Southern State, for instance, where prejudice against the Negro goes so far as to deny to the Negro

the right to sell wood from his own woodlot or the right to a place on the social-security rolls of the State when he suffers misfortune.

The same attitudes that reflect themselves in these forms of public discrimination are also reflected in private discrimination in employment. The result of all this is not only to blacken the economic lot of the Indian but also to blacken the international prestige of the United States throughout the world. For we must remember that what we do to Alaskan natives, who were once Russian citizens, may be far removed from the American public, but it does reach within 2 miles of Russian soil and Russian eyes and Russian loud-speakers. And what we do on the Mexican border to Spanish-speaking Indians reaches through the length and breadth of Latin America.

I may say, incidentally, that the line between prejudice against the Indian and prejudice against the Spanish-American, or Mexican, as he is sometimes called, is very difficult to draw. Biologically, of course, the Indian element is a very large element of our Spanish-American population. The Spanish conquistadores did not bring their womenfolk with them when they came to settle what is now the United States, a good many years before the Pilgrims landed here. Most of the Indians of the Southwest speak or understand Spanish, if they understand any white man's language. At least that would be true of the older Indians who are in the market for jobs. Discrimination against the Indian thus goes hand in hand with discrimination against the Spanish-American, and I am sure that other more competent witnesses have already testified, or will testify, before this committee on the extent and seriousness of such discrimination. But discrimination against American Indians is not limited to the Southwest where they share the problems of the Spanish-American. Indians of the State of Washington, for example, suffer from discrimination, as the final report of the President's FEPC reported, "American Indians around Seattle have serious employment problems" (p. 77).

In those sections of the United States where prejudice against the Indian is most marked, Indians are the last to be hired and the first to be fired. Many Indians whom I know to be keen observers of economic conditions, persons who have achieved distinction in public service or social work or missionary activities, have told me of the long patient waiting that Indians must endure before it can be determined whether there are enough non-Indians available to fill all job openings or whether there will be some left over for Indians. As the Rev. David Owl once said to me, an Indian can get a job, if he is twice as good as the next man.

Several employers have commented to me upon the high degree of manual skill exemplified by Indian workers in war industries. During the years when the President's Fair Employment Practices Commission was in operation Indians made a very great contribution to such war industries as ordnance assembly and torpedo manufacture. Such employers, however, are in a small minority. Generally speaking, the areas in which prejudice against the Indian is most extreme are areas where rich natural resources are being siphoned off by absentee ownership. Such is the case particularly in Alaska, Arizona, and New Mexico. The local managers of these absentee corporations are likely to accept the local lines of prejudice, particularly insofar as these lines of prejudice help to keep different groups of employees at each other's throats. Of course, many Indians do get industrial jobs. But generally they are down-graded so that they must do a higher grade of work than a man of another race in the same position, in order to hold on to the job.

Now it should be noted that this discrimination against Indians in industrial employment casts a particularly heavy burden upon the United States Government itself, and serves to defeat one of the major purposes of our American Indian policy, which is to supply the Indians as rapidly as possible with the experience and techniques which their fellow-citizens of other races have mastered during the past two or three thousand years, so that the Indian will be able to take his place on the American economic scene, and make the fullest contribution of which he is capable to American life and to the American economy. What happens when an Indian is discriminated against and thrown out of his job is that he must, perforce, drift back to his family on the reservation which is generally an overcrowded and blighted economic area. The worst lands of the United States are, generally speaking, the lands which the Indians were permitted to reserve for themselves. Every additional mouth on these reservation lands drags down the standard of living. We have, therefore, strategic depots of undernourished, underfed, underpaid, underprivileged American citizens. This is not a healthy situation either for the United States or for the States

and countries in which these Indians reside. We do not suggest that the elimination of job discrimination is a complete answer to the problem of Indian suffering; but it is at least a major part of any complete answer, and we hope, therefore, that this committee will do its part toward securing legislation that will give the Indian a fair break in the Nation's economy.

We think that H. R. 4453 represents a great forward step in achieving that objective, and we therefore support this legislation in principle and in substance. At the same time we should like to call attention to certain points where we hope this committee can improve upon the bill it is now considering. In the first place, I call attention to the fact that H. R. 4453 does not prohibit discrimination based upon ancestry, as does, for example, S. 174, introduced by Senators Ives, Chavez, Downey, Morse, Murray, Myers, Saltmatt, and Smith of New Jersey, and as provided in practically all of the bills introduced on this subject in the Seventy-eighth, Seventy-ninth, and Eightieth Congresses. I think that the omission is particularly unfortunate. Discrimination against Indians is generally discrimination based upon ancestry. It is certainly not based upon religion or national origin, and it is not always based upon race, technically, or color; from many Indians, who suffer discrimination as Indians are, from a biological standpoint, racially more white than Indian. I am sure that this committee does not want to advise employers that they can discriminate against the children of Indians or Jews or other designated groups. Yet that would, I think, be the effect of omitting the word "ancestry" in section 2 (a), and in the subsequent section of H. R. 4453, where the types of discrimination outlawed by this bill are enumerated.

There is a second point at which I think the language of H. R. 4453 is defective, and that is in section 4, which grants an exemption from the provisions of the act to any employer who employs aliens outside the continental United States, its Territories, and possessions. Although the Association on American Indian Affairs is concerned officially with problems of Indians of continental United States and Alaska, this provision affecting Indians in other areas has consequences which I feel should be called to the attention of this committee. If this exemption merely allowed American employers abroad to give preference to nationals of the country in which they are operating there would be no reason to object, at least so long as other nations insist upon such preferences. But this exemption granted by section 4 goes far beyond any such dispensation. In effect, section 4 grants advance dispensation to American corporations to establish policies of anti-Indian, anti-Semitic, or anti-Negro discrimination abroad if they choose. Now with respect to the Indian, the fact is that American corporations in Latin-American countries, if they pursue anti-Indian policies, give the United States a black name in the eyes of a majority of our good neighbors. American firms abroad can be the salesmen of the American way of life. Or they can furnish ammunition to enemies abroad who paint us as a nation of bigots and hypocrites. I can see no justification whatsoever for granting to American firms the right to commit nuisances in other people's backyards. I think, rather, that we ought to be particularly careful about the attitudes and activities of American corporations in other parts of the world, especially when this involves racial or religious discrimination.

There are two points of draftsmanship on which I hesitate to criticize the present draft because I am not familiar with the reasons which led the draftsman of this bill to decide upon its present language. I therefore merely call the committee's attention to the fact that section 7 at page 10 appears to give to the Commission an exclusive power which would eliminate parallel activities by other State or Federal agencies. Both in Alaska and in New Mexico there are State or territorial agencies which are trying to put a stop to anti-Indian discrimination in certain fields, and it is questionable in my mind whether these State and territorial activities should be stopped, if that is the purpose and effect of section 7. At the same time I question the consistency of section 7 with the language of section 10. Section 10 appears to contemplate that the Civil Service Commission or other Federal agencies will retain existing jurisdiction in discrimination cases. On the other hand, section 7 says that the jurisdiction of the Commission shall be exclusive. I don't know how those two sections can be reconciled.

I call attention, finally, to the omission in section 18 of any provision whereby Congress could scrutinize and pass upon the regulations issued by the Commission as is provided by S. 174 and other drafts of legislation in this field. I do not wish at this time and place to argue for or against such a provision, but I merely

call the committee's attention to the fact that we are legislating in a new field and that many Members of Congress might be readier to accept new legislation in this field if they felt that they had a continuing power of scrutiny, at least during the formative years in which a national policy will be molded by a gradual accumulation of new regulations and rules. This bill after all makes the creation of such a national policy possible by providing the machinery and giving explicit congressional approval to the goal of equality of employment opportunity. As such it is of the greatest importance, but perhaps since we are still pioneering in this field Congress may not wish to drop its responsibility for developing policy at this early stage.

Finally, I list very briefly a few other minor points of draftsmanship to which I call this committee's attention and which I shall not take the trouble or time to discuss in detail.

I believe that the last word on page 5 of H. R. 4453 should be "or" rather than "and."

I believe that in section 6 (d) at page 7 in the last line of the page, the report should be made to the Congress of the United States.

I believe that none of the foregoing criticisms goes to the substance of H. R. 4453. And the substance of that bill has the full support of the Association on American Indian Affairs, as a practical contribution to the economic welfare of our oldest minority and as a practical way of avoiding the injustices and miseries that flow from economic discrimination and that are so graphically exhibited in the lives of our Indian fellow citizens today.

Mr. COHEN. I should like to say, briefly, that since 1943, when at the request of a great American, Mr. A. Philip Randolph, and a great Senator, Senator Chavez, I first lent my aid to the problem of helping to draft FEPC legislation, I have followed the course of this legislation with some care and detail. So far as I know the problem of the Indians has not been presented to the various committees that have considered this legislation.

There are two reasons why I think the experience of the Indians, in which the Association on American Indian Affairs, which I represent, is particularly interested, has something to bear upon this problem.

In the first place, we think that our experience on this continent of 450 years with racial discrimination in the field of Indian affairs has a very important bearing upon the difficult problem this committee faces in devising effective measures to deal with this problem of discrimination.

The second reason for our appearing is that the Indian himself is today a victim of very serious economic discriminations, and we hope this committee will do its part to eliminate those discriminations. And we are very much encouraged by the progress which this committee is making.

On the first point, the bearing of our experience with Indian discrimination on the general problem which this committee faces, I should like to call attention to the fact that discrimination against the Indian has not been primarily a matter of social segregation. Discrimination against the Indian has almost always taken the form of denying to the Indian the right to engage in the economic pursuits open to his fellow countrymen.

Discrimination against the Indian shows the consequences of economic discrimination continued over a long period of time. Our economic discrimination against the Indian began in our first contacts when we denied the Indians the right to sell their lands or furs or agriculture or timber or minerals to customers of their own choosing, and insisted they could only sell to the United States or its agents.

That discrimination resulted in the Indians being forced to sell their products or their services at extremely low rates of return, and generally far below the market prices at which their white neighbors were able to sell their products.

I have seen on a number of the Indian reservations in this country conditions of misery and starvation and helplessness that could not be duplicated in the worst city slums of the United States, not even in the slums of Puerto Rico. One would have to look to China or India for parallels. And that affects the surrounding communities. It keeps wages down, and adds to local and national tax burdens. That is the end result of centuries of economic discrimination. That is the end result to which similar discriminations in the economic field can reduce any segment of our population. And that is the result which we know this committee wants to avoid.

The initial point which I want to make is the point that the Indian today has a very serious concern in the problem of job discrimination. I know that it may seem strange to some of us in the East—and I am an easterner myself—to think of Indians as having a special interest in the problem of job discrimination.

The general picture of the Indian is a romantic and unrealistic picture of somebody with a war bonnet on a horse, somebody at the end of a trail, who would not know what to do with a job if he had one.

It may come as a surprise to some members of the committee to know that there are Indians in the country who are being subjected to very serious economic discriminations. That common opinion is that the Indian is an insignificant and vanishing minority.

The fact is there are about as many Indians in the United States today as there were Jews in Hitlerite Germany—about 450,000. And the economic discriminations practiced against them today are probably more serious than those practiced against any other minority group.

Conditions are particularly acute in Alaska. For example, under the Tongass Act of 1947, timber that belongs to Indians may be seized by Government officials and sold by the Forestry Service at its discretion, and sold to buyers at prices determined by the Forestry Service, and the Indian will not receive any part of the proceeds of the sale of his timber unless he carries through expensive litigation over a period of many years to win back the proceeds of his own property.

Under present laws and regulations, Indian fishing sites in Alaska may be and are given into the control of non-Indian canning companies without compensation to the Indians.

In one extreme case, a Government agency controls the disposition of the fur catch of a valuable native fur grounds, and year after year practically all the sealskins in Alaska are turned over to a certain fur company.

Mr. POWELL. Excuse me for interrupting, but we have 10 more minutes.

Mr. COHEN. The native owner of the hunting ground may receive as little as \$176 a year out of the millions made in this transaction by the Fish and Wildlife Service and the Fouke Fur Co.

I mention Alaska as an outstanding example of systematic economic discrimination because only a hundred years ago these natives were among the wealthiest people in America and they now have been

pushed down to the bottom of the economic ladder by a system of consistent discrimination.

I might also mention that in two States of the Union the Indians are not even allowed to stand on the lowest rung of the economic ladder. An American citizen who is otherwise entitled to social-security benefits, aid to the aged, aid to the blind, or aid to dependent children, cannot receive such benefits in Arizona or New Mexico if it is discovered that he is a member of an Indian tribe. In that connection, I would like to quote very briefly from a petition sent to the President recently, and to Secretary Krig and to Federal Security Administrator Ewing by the Association on American Indian Affairs, and signed by its president, Mr. Oliver LaFarge, and its honorary president, Dr. Haven Emerson.

By such arrogant racial discrimination, 100,000 American citizens are excluded from the benefits granted all others, and their right to live is thereby seriously impaired. This callous denial of rights guaranteed by national law has intensified suffering among American Indian people in New Mexico and Arizona for the past 14 years. These people are among the most deprived in our country. The conscience of Americans cannot tolerate the racial discrimination by which the States of New Mexico and Arizona violate the social-security law and deal without justice or humanity with thousands of their citizens of American Indian blood.

I realize matters of social security and matters of that sort are not within the jurisdiction of this committee, but I mention that to indicate the type of prejudice that exists in some parts of our country where the Indians are victims not only in public relations, but in private employment as well. In those sections of the United States, Indians are the last to be hired and the first to be fired. Many Indians whom I know to be keen enough observers of economic conditions, persons who have achieved distinction in public service or social work or missionary activities, have told me of the long patient waiting that Indians must endure before it can be determined whether there are enough non-Indians available to fill all job openings or whether there will be some left over for Indians. As the Reverend David Owl once said to me, an Indian can get a job if he is twice as good as the next man.

Several employers have commented to me upon the high degree of manual skill exemplified by Indian workers in war industries. During the years when the President's Fair Employment Practices Commission was in operation, Indians made a very great contribution to such war industries as ordnance assembly and torpedo manufacture. Such employers, however, are in a small minority. Generally speaking, the areas in which prejudice against the Indian is most extreme are areas where rich natural resources are being siphoned off by absentee ownership.

We think that H. R. 4453 represents a great forward step in achieving the objective of fair employment, and we support this legislation in principle and in substance. At the same time we should like to call attention to certain points where we hope this committee can improve upon the bill it is now considering, as it now stands.

The first point has already been covered by Mr. Maslow this morning: the point of ancestry.

The second point which I think should be considered is in section 4, which grants an exemption from the provision of the act to any em-

ployer who employs aliens outside the continental United States, its Territories, and possessions. Although the Association on American Indian Affairs is concerned officially with problems of Indians of continental United States and Alaska, this provision affecting Indians in other areas has consequences which I feel should be called to the attention of the committee. If this exemption merely allowed American employers abroad to give preference to nationals of the countries in which they are operating, there would be no reason to object, at least so long as other nations insist upon such preferences. But this exemption granted by section 4 goes far beyond any such dispensation. In effect, section 4 grants advance dispensation to American corporations to establish policies of anti-Indian, anti-Semitic, or anti-Negro discrimination abroad if they choose. Now, with respect to the Indian, the fact is that American corporations in Latin-American countries, if they pursue anti-Indian policies, give the United States a black name in the eyes of a majority of our good neighbors. American firms abroad can be the salesmen of the American way of life, or they can furnish ammunition to enemies abroad who point us as a Nation of bigots and hypocrites. I can see no justification whatsoever for granting to American firms the right to commit nuisances in other people's backyards. I think, rather, that they ought to be particularly careful about the attitudes and activities of American corporations in other parts of the world, especially when this involves racial or religious discrimination.

I might point out finally that the worst cases of racial discrimination against the Indians occur on the national border where the victims of discrimination are people who speak the same language as those south of the border, and at those points of our American territory which reach within 2 miles of the eyes of Soviets and Soviet loud-speakers.

I submitted in my statement one or two technical points, and I will close by saying I believe that none of the foregoing criticisms goes to the substance of H. R. 4453. And the substance of that bill has the full support of the Association on American Indian Affairs as a practical contribution to the economic welfare of our oldest minority, and as a practical way of avoiding the injustices and miseries that flow from economic discrimination and that are so graphically exhibited in the lives of our Indian fellow citizens today, and that threaten every other minority.

Mr. POWELL. I want to thank you for appearing here. I have read your statement carefully, and all the suggestions which you include in the last two pages will be carefully considered by the committee.

Mr. COHEN. Thank you.

Mr. POWELL. They are very valuable suggestions, and the chairman agrees with you that the everlasting shame of this country is what we have done and are doing to our Indian citizens.

Is your organization the one that Will Rogers is connected with?

Mr. COHEN. Will Rogers is one of the directors of the organization.

Mr. POWELL. The committee stands adjourned until 10 o'clock tomorrow morning.

(Whereupon, the committee adjourned at 11:20 a. m., until 10 a. m. of the following day, May 25, 1949.)

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

WEDNESDAY, MAY 25, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Adam C. Powell, Jr. (chairman), presiding.

Mr. POWELL. The meeting will come to order.

Our first witness this morning is Representative Emanuel Celler.

TESTIMONY OF HON. EMANUEL CELLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Celler. Mr. Chairman, at the outset I want to express my thanks for the opportunity of voicing my views on the pending so-called FEPC legislation.

Our forefathers devised our Constitution to insure for the individual a political Bill of Rights. During our history the stress has been upon our political rather than upon our economic security.

During the early days of our Republic, in the frontier days, the need for an economic Bill of Rights did not press itself forward to the national consciousness; but subsequently, throughout the whole development of the Nation, the thought of an economic Bill of Rights has been the impelling force which has shaped such legislation as the antitrust laws, banking laws, regulations in interstate commerce, workmen's compensation, social security, and the like.

As we receded more and more from the primary agricultural economy with the advent of the industrial revolution, the industrial nature of our society compelled us to recognize that equality of opportunity must include equality of opportunity to get a job, regardless of race or color, or national origin.

As our society becomes more and more complex and the machine becomes more and more important, a job becomes more precious, more difficult to obtain, to change or to hold. It is the job that means economic security or distress for the individual. With it the worker has dignity, the opportunity to better himself and his children, to remove the scars of poverty and want so that he and his children can properly discharge the responsibilities he owes to himself, his neighbors and his country.

Hence, the way to a job should not contain any unnatural or unfair road blocks. The worker should have the right to appeal to his Government to remove the impediments deliberately placed to prevent his

access to dignity and security. His right to a job should be as sacred as his right to vote, right to free speech, religion, and assembly.

Theodore Roosevelt, Woodrow Wilson, Franklin Delano Roosevelt, and President Truman all sought to implement the solemn declarations of our Constitution, as expressed in the preamble, by solid legislation guaranteeing economic rights and offering sanctions for destroying or withholding them from the individual.

The Square Deal of Teddy Roosevelt, the New Deal of Franklin Delano Roosevelt, and the Fair Deal of President Truman symbolized this fundamental concept. To the four freedoms enunciated by Franklin Delano Roosevelt, the peoples of the world responded with an enthusiasm unmatched by any rallying cry since "Liberty, Fraternity, Equality."

Two of the four freedoms occupy themselves with economic security, freedom from fear and freedom from want.

There can be no freedom from want or fear if there be no economic security. There can be no economic security if a man cannot hold or secure a job because of his race or color or national origin.

No man is free from fear if the cord to his job is so slender that racial or religious prejudice can sever it. That cord must be so strong and enduring as to block the edge of any racial bias and religious prejudice that would cut into it.

The Nation is only as strong as its citizenry. The worth of the individual, his security and dignity and happiness as an individual is the worth of the Nation. As the individual goes, so goes the Nation. The individual's freedom from fear or want is the Nation's barometer of success or failure.

Certainly, bigotry and bias and prejudice on racial or religious lines should not determine whether or not a man should have a job. Bigotry and racial and religious discrimination are not easily combated. They have caused untold suffering in our history. We must embrace any weapon that can aid in the battle against bigotry, and FEPC is such a weapon.

I recall the words of Tom Paine, whose pen proved mightier than his sword in the days of our struggle for independence:

Prejudice, like a spider, makes everywhere his home and lives where there seems nothing to live on.

There are certainly too many spidery webs of prejudice clinging to entirely too many opportunities of employment, and these webs must be wiped away.

Certainly, access of the individual to a job should not be walled up by the ugly nails of prejudice. Has not a man the right, regardless of creed or color, to earn the wherewithal with which to secure for himself food, shelter, and clothing?

I remember the story of two wounded Spanish officers of the Spanish civil war. They were of opposite factions, they were being treated in the same hospital and soon became fast friends over their nightly checker games. One said to the other, "Now, why do we fight each other?"

He said, "Why are we enemies?"

The other replied, "It is the Jews."

"The Jews?" countered the other; "Why the Jews?"

The other replied, "Well, you see, since the Inquisition when we drove all the Jews out of Spain, we have had nobody to fight with, so we fight each other."

The same kind of illogic obtains wherever prejudice resides. These two Spanish officers got to know each other and to respect each other, and close contact smoothed their differences until they disappeared. Just so experience has shown that one of the most efficacious ways to be educated out of prejudice is to have actual experience beside a member of the group about which one has false notions, and FEPC will bring about such education and close contact.

The aim of this legislation, it must be kept in mind, is not concerned with prejudice per se, but with effects of prejudice upon man's economic rights. Prejudice is an attitude of mind, and the attitudes, it is true, cannot be changed by law any more than prohibition can change drinking habits.

All FEPC does is to seek the manifestation of prejudices so as not to deprive the right of another of his economic right to hold a job. There is no attempt to legislate attitudes out of existence, but a realistic approach to man's right to work. This legislation seeks to replace tension and disorder by law and order, curbing unlawful activity which follows when a man cannot obtain work only because of his creed or color. We cannot rely upon public opinion alone to do the job, as has been suggested by the opponents.

Only as expressed in terms of law can public opinion be immediate and effective. The same is true of the slow process of education. You can learn a mathematical theory over and over again, but it can have little practical meaning to you until applied.

If education and persuasion alone could suffice we would need no traffic lights, and then the Bible would be sufficient, but we do have laws against perjury and stealing and adultery.

It has been argued that such legislation is an infringement upon the rights of employers. Well, for that matter, so are the wages and hours laws and the prohibitions against child labor. This legislation is not an infringement on the employer's social preference, but rather affirmative action to insure the rights of the worker.

Again I emphasize that the purpose of this legislation is not negative. It does not grant special privileges to any group; it merely seeks to eliminate the withholding of rights.

I know that the argument has been advanced that this Federal legislation would infringe on State rights. That is not so, since it will apply only to Federal agencies, to the industries of the State which is in interstate commerce, to interstate unions, and to contractors under contracts with the Federal Government.

I sincerely believe this legislation to be in the best interests not only of the States, but of the country at large. It will result in the raising of the standards of living of all minority groups and, consequently, increase the national income by way of increased purchasing power.

It will enable minority groups to establish a higher degree of literacy, to induce better health habits, and to achieve a pattern of life closer to the national ideal. Our whole society is confronted with problems of health and welfare, often costly and a drain on the taxpayers, arising out of economic distress caused by discrimination.

One further word, gentlemen. It is my studied conviction that any argument advanced against the constitutionality of this legislation is

without validity, and I take it that that argument has been advanced before this committee.

Final determination as to constitutionality of laws passed by the Congress rests with the United States Supreme Court. The FEPC bill, however, was reviewed from the standpoint of its constitutionality in the light of previous Supreme Court decisions on similar legislation, and the official report of the Senate Committee on Education and Labor on S. 101 states:

The provisions of this bill follow well-marked legislative precedents which have met the tests of constitutionality in the courts.

The following citations are abstracted from this report:

Government employment: The congressional power to regulate employment practices of all Federal agencies is found in article 1, section 8 of the Constitution. No challenge to this power has ever been successful in the courts. (See *United States v. Mitchell*, 89 F. 2d 805, 8-9.)

Article 1, section 8, you may remember, gentlemen, concerns the right of Congress to regulate commerce among the several States and to provide for the general welfare as to Government contracts.

The congressional power to describe the terms on which the Federal Government may contract with private parties has been upheld in *Perkins v. Lukens Steel Company*, 310 U. S. 113, 127.

The congressional power to regulate employment relations affecting interstate or foreign commerce has been upheld in a number of cases. The FEPC stays within the limits marked out by the statutes upheld in the cases of *National Labor Relations Board v. Jones & Laughlin Steel Corporation*, 301 U. S. 1; *Texas & New Orleans Railway v. Brotherhood*, 281 U. S. 548; *United States v. Darby*, 312 U. S. 100; *Kentucky Whip & Collar Company v. Illinois Central Railroad Company*, 299 U. S. 334.

In *Steele v. Louisville & Nashville Railroad*, 323 U. S. 192, the Supreme Court unanimously held that discrimination because of race by railway labor union against nonmembers was illegal.

A New York State law forbidding unions to discriminate in membership on grounds of race, color, or creed, was held to be in accord with the United States Constitution by the United States Supreme Court in the case of *Railway Mail Association v. Corsi*, 326 U. S. 88.

The bill is not an invasion on States' rights since it is limited to interstate commerce as to Federal activities, which are the primary constitutional concern of the Federal Government rather than that of the States.

And the cases in that regard are *National Labor Relations Board v. Jones & Laughlin Steel Corporation*, 301 U. S. 1; *United States v. Darby*, 312 U. S. 100; *Kentucky Whip & Collar Company v. Illinois Central Railroad Company*, 299 U. S. 334.

Unless there are some questions, I shall stop at this point.

Mr. POWELL. Thank you, Congressman Celler. You have covered very adequately all of the objections that have been advanced, and those objections as you have covered them are that the bill is unconstitutional and infringes on States' rights in trying to legislate away prejudice. But one proposal that you did not touch upon in the bill is communism. I know that is a facetious charge, but nevertheless, it reaches a ready ear in a sizable part of our population which is more or less gullible concerning such charges.

Would you touch upon that?

Mr. CELLER. We know empty stomachs and economic distress breed communism. The well-being of an individual, and anything that caters to his freedom from wants and fears are the best weapons we have against communism. As you have indicated, it is a most factious argument and I think the opposite would prove true.

Mr. POWELL. This afternoon the Honorable Brooks Hays is coming before us to state his objections and offer counterproposals to the bill, and I am happy to have your testimony here this morning because your testimony will answer point by point every point he has made against the bill, and we have gone so far as to get editorials from outstanding papers in the South, such as the Birmingham Age-Herald and the Birmingham News, virtually endorsing such a bill as FEPC—editorials in Alabama papers.

Mr. CELLER. You know, Mr. Chairman, out of the Far East comes the saying, "If you rub a bar of steel long enough you can rub it into a needle."

We have to keep on rubbing, and we will finally get our objective.

There are many liberals in the South who see eye to eye with you on the subject and, I think, the feeling is growing that something must be done about the situation.

The mere fact that Brooks Hays, for whom I have a very high regard—

Mr. POWELL. I also have a high regard for him.

Mr. CELLER. He is one of the most effective Members we have, and the fact that he takes the attitude that he does is a great step forward.

Mr. POWELL. That is right, and that is why we are devoting almost the entire afternoon to Mr. Hays, because he is trying to do something rather than to say something cannot be done.

What do you think about the time-table of legislation, or would you want to say anything in regard to civil rights coming before the House of Representatives?

Mr. CELLER. I want to say I have offered a civil-rights proposal, as chairman of the Judiciary Committee, and have referred it to the so-called subcommittee No. 3 of our House Judiciary Committee, which committee is presided over by Mr. William Byrne. I am happy to state that the hearings on this bill will start next week.

Mr. POWELL. Open hearings?

Mr. CELLER. Yes, sir.

Mr. POWELL. That will be on all of the Gross and Celler bills?

Mr. CELLER. Yes; that is the bundle bills.

Mr. POWELL. This is the only one of the Gross bills which your committee will not consider?

Mr. CELLER. No; our committee will not have jurisdiction over two of the civil-rights proposals, the one which is now before you, and the anti-poll-tax bills.

Mr. POWELL. That is right. So we are going to try to do something in this session of Congress, are we not?

Mr. CELLER. I am going to strive with might and main to contribute my part to that end.

Mr. POWELL. Mrs. Norton assured me she was going to strive with might and main to see that the anti-poll-tax proposal came forward in this session.

Mr. CELLER. I noticed, Mr. Engel, a very prominent lawyer from New York, and a very outstanding citizen, in the audience, and I understand he is to be the next witness. I want to commend him most highly to you, and I think you will find he will give you a very fine statement.

Mr. POWELL. Yes.

Mr. Burke?

Mr. BURKE. No questions.

Mr. POWELL. Thank you ever so much.

Mr. Irving M. Engel.

TESTIMONY OF IRVING M. ENGEL ON BEHALF OF THE AMERICAN JEWISH COMMITTEE

Mr. ENGEL. Mr. Chairman and gentlemen, before reading my formal statement I would like to say I was interested in the editorials from Birmingham. I was born and reared in Birmingham, and still have interests in that community.

Mr. POWELL. How long ago did you leave there?

Mr. ENGEL. Twenty-four years ago, but I practiced law there, and my family is still there.

Mr. POWELL. You are a reconstruction southerner?

Mr. ENGEL. I do not know just what you would call me, but I am an ex-southerner, anyway.

The American Jewish Committee, which I have the honor to represent here today, urges the immediate enactment of fair-employment-practice legislation by the Eighty-first Congress. We do so in concert with the many other individuals and groups who believe that the right to equality of opportunity and treatment in employment is basic to our democracy and to our free economy and who are convinced that Federal legislation is urgently needed to protect this right for all Americans, regardless of their race, color, religion, ancestry or national origin.

The United States of America was the first nation in history to be founded on the proposition that all men are created equal. Our founding fathers, when they proclaimed this world-shaking truth in the Declaration of Independence, also set forth certain unalienable rights—to life, liberty, and the pursuit of happiness.

For they recognized then, as we do today, that it is not enough merely to have been created equal; that in a democracy, men must be treated as equals, enjoying an equal opportunity to build a happy and purposeful existence for themselves and their families.

There can be little doubt that without a chance to make full use of the skills and talents we possess without the opportunity to demonstrate our abilities and to be judged accordingly, we cannot enjoy the full benefits of freedom. In fact, ever since most of us stopped living solely on the produce of our own hands, ever since men became dependent on wages and salaries for food, clothing, and shelter, the right to an equal chance to earn a living has been in the forefront of those freedoms for which people everywhere have fought.

Out of the right to fair employment flow many of the other rights we hold dear. The man who is denied the chance to earn a decent living because of the color of his skin, the place of his birth, or the

way he worships God, finds it difficult, if not impossible, to enjoy the other privileges of democracy.

Indeed, in some instances, he cannot even afford the education that would teach him and his children just what are their democratic privileges, rights, and duties.

We have always maintained that under our economic system a man can advance as far as his ambition and his abilities permit. It is unjust, immoral, and degrading to qualify such a statement with the parenthetical provision that he must be of a certain race, a certain religion or a certain national background.

During the war and in the few years immediately following, this issue was, practically speaking, less pressing than it is today. The President's Fair Employment Practice Committee, established by Executive order in 1941, was in successful operation until June 28, 1946; the severe shortage of manpower occasioned by the war opened up many fields of employment previously closed to members of many groups.

At present, however, by all indications, we have passed our employment peak and our economy is leveling off. Men and women who, for the first time in their lives, enjoyed the dignity of working at their highest skills and capacities, once again find themselves behind the barriers of racial or religious discrimination. As employment decreases and the job market throughout the country tightens, it becomes increasingly urgent that we close the gap between our ideals and our practices, and assure to every American his full rights to an equal chance.

Discrimination in employment is devoid of any moral justification. In addition, there are other sound reasons for its elimination. A witness before a congressional committee made this point some time ago when he stated:

Discrimination in employment damages lives, both the bodies and the minds, of those discriminated against and those who discriminate. It blights and perverts that healthy ambition to improve one's standard of living which we like to say is peculiarly American. It generates insecurity, fear, resentment, division, and tension in our society.

This is quoted in "To Secure These Rights," the report of the President's Committee on Civil Rights, page 53.

Mr. Eric Johnston, when he was president of the United States Chamber of Commerce, stated that racial and religious prejudice costs this Nation \$2,000,000,000 every year. Other equally prominent businessmen have made similar estimates from time to time. The reasoning behind such statements is clear. Business consists of two sides of a coin. One is production; the other is consumption. Both suffer whenever discrimination holds sway.

The United States, as has been pointed out many times, is a Nation of minorities. Among our citizens are some 13,000,000 Negroes, some 23,000,000 Catholics; some 5,000,000 Jews.

We have in our midst some 12,000,000 foreign born and almost 4,000,000 Filipinos, Mexicans, Chinese, and Japanese—both native and foreign born.

All in all, more than 50,000,000 Americans sometimes face job discrimination due to prejudice. Each of these is a consumer. Given the money to buy, he is in the market for food, clothing, radios, wash-

ing machines—and all the other goods produced on our farms and in our factories.

But workers who are subject to job discrimination do not have the money to buy. And when this happens to large numbers of our population, production is bound to suffer. Slums, crime, and disease increase. Diseases that start in slums often spread to other neighborhoods; fires in dingy tenements have burned down whole blocks. The costs of relief, police and health services in slum and tension areas are borne by the whole community in the form of rising taxes.

American business has long realized that improved standards of living in far-off countries create new markets for American goods. Yet, we have been permitting a practice which reduces the demand for our goods and services right here at home.

There are psychological costs of job discrimination which must also be taken into account. Children and adults whose vistas must be bound, not by their hopes of attainment, but by their race or religion, cannot do their utmost for the nation which permits such frustration.

Add to this the squandered skills and talents which society needs so badly—the youngsters who might grow to be great doctors, artists, scientists, social leaders, if the door to opportunity were not closed—and it becomes clear that when discrimination calls the tune, all of us pay the piper.

Most forward-looking American businessmen are coming to the conclusion that Federal legislation for fair employment practices is needed.

On February 15, 1948, a telegram was sent to the Speaker of the House and the President pro tempore of the Senate, signed by such well known men as William L. Batt, president SKF industries; Paul G. Hoffman, then president, Studebaker Corp., and now head of ECA; Henry R. Luce, Time, Inc.; Dwight G. Palmer, president, General Cable Corp.; Beardsley Ruml, then chairman of the board, R. H. Macy & Co., and others.

The telegram urged passage of a fair employment bill, declaring:

* * * Discrimination is uneconomic, in that it results in an unsound use of manpower and retards the development of purchasing power.

It stated further—

We do not believe that passage of this bill will eliminate prejudice from America, but it will be an effective step along the road.

Many other Americans share this view, convinced that discrimination in employment promotes industrial strife and increases resentment and tensions which can only hurt the cause of American unity. As Mr. Ben Herzberg declared in his statement on behalf of the American Jewish Committee 2 years ago: .

The practice of discrimination in employment aimed at by this act has the strong tendency to keep alive antagonisms that would be ameliorated if the restrictive practice disappeared.

This occurred in the hearings before a subcommittee of the Committee on Labor and Public Welfare, United States Senate, Eightieth Congress, on S. 984; page 220.

Nor can we overlook the detrimental effect which the continued existence of job discrimination in this country has upon our international relations. In the words of Wendell Willkie:

The equitable treatment of racial minorities in America is basic to our chance for a just and lasting peace. We, as Americans, cannot be on one side abroad and on the other at home. We cannot expect the small nations and men of other races and colors to credit the good faith of our professed purposes and to join us in international cooperation for future peace if we continue to practice an ugly discrimination at home against our own minorities.

This appears in Collier's October 7, 1944.

Mr. Willkie wrote that statement in a national magazine almost 5 years ago, when the freedom-loving nations of the world were united by the exigencies of war. Today, the United States is even more sharply the focus of attention abroad. We have it from no less an authority than Secretary of State Dean Acheson, who has declared:

The existence of discrimination against minority groups in this country has an adverse effect on our relations with other countries. An atmosphere has suspicion and resentment . . . over the way a minority is being treated in the United States is a formidable obstacle to the development of mutual understanding and trust. . . . We will have better international relations when the reasons for suspicion and resentment have been removed. The Department of State, therefore, has good reason to hope for the continued and increased effectiveness of public and private efforts to do away with these discriminations.

This is in a letter to the Fair Employment Practice Committee, May 8, 1946.

Thus it is clear that our international prestige and our national interest are at stake.

Unfortunately there are still some opponents of Federal fair employment practice legislation who discuss such action as though it were an untried experiment with all sorts of dangerous implications. It is no such thing. The effectiveness of the wartime Fair Employment Practice Committee stands out as a shining example.

In its final report to President Truman dated June 28, 1946, the committee stated: :

FEPC during its 5 years satisfactorily settled nearly 5,000 cases by peaceful negotiations, including 40 strikes caused by racial differences. During the last year of the war FEPC held 15 public hearings and docketed a total of 3,485 cases, settling 1,191 of them. These settlements were not publicized and generally escaped attention. The contrary impression that FEPC normally met with unyielding opposition, was created by the comparatively few difficult cases which received emphasis through public hearings and public expressions of defiance by some recalcitrant employers and unions.

In fact, the bulk of FEPC's useful work was accomplished by the quiet persuasion of its regional representatives assigned to 15 regional and subregional offices located in many industrial centers.

A detailed study of wartime FEPC achievements is indeed impressive. Largely as a result of the Executive order establishing FEPC, and the activities of the committee, there was an increase in the employment of Negroes in industry from less than 3 percent of the labor force in 1942, to 8.3 percent 2 years later.

Negroes held 9.8 percent of the civil-service jobs in 1938 and 12 percent in 1944. Of the earlier figure, 40 percent were custodial help in 1938, whereas only 12 percent held similar jobs in 1944. The number of Negroes working as skilled and semiskilled laborers jumped from half a million to 1,000,000.

These results made themselves felt throughout the country. At Lockheed Aircraft, for example, prior to an FEPC hearing in October 1941 there were 39 Negro workers among 48,000 employees.

By August 1944, 3,000 Negroes had been hired, with good race relations prevailing at the Lockheed plants. Lockheed's experience encouraged the entire aircraft industry to hire Mexican-Americans and Negroes. This was an industry which had virtually excluded non-whites from its employment rolls before the war.

FEPC intervened, late in 1943, in the hiring policy of the Chicago transit lines, where Negroes had previously held only service and laboring jobs. As a result of conferences among transit companies, unions, and regional FEPC representatives, Negroes were hired for operating jobs. By the end of 1944 there were over 500 Negroes employed by these concerns.

At the plant of General Cable Corp. in St. Louis, employees resisted plans for white and Negro women to work together. Dwight Palmer, president of the concern, met with FEPC and Army officials and later addressed three shifts of women workers at his plant. General Cable proceeded to hire Negro workers and has continued to do so. According to a 1948 plan report:

Negroes . . . have proved their ability and have advanced through the ranks to top jobs. . . . Their absentee records are excellent. They are willing and steady workers, and have never asked for special privileges or special consideration because of their color. . . . White and colored workers are very congenial; in fact, no thought was ever given toward a Negro being a Negro.

The Delta Ship Building Co. in New Orleans and the Alabama Drydock & Shipping Co. in Mobile, both originally worried about labor disturbances if they hired and up-graded Negro workers, did so under FEPC guidance, with no ensuing difficulties.

The record is too full of similar examples to cite them here. It is the undeniable answer to doubters and pessimists who still maintain that Federal fair employment legislation can't work.

With the end of wartime FEPC a number of the States have passed their own fair employment practice laws in order to retain as many of the wartime gains as possible through local action.

The experience of these States corroborate the Federal record. In New York, Connecticut, New Jersey, and Massachusetts over 1,200 cases a year are settled by direct and friendly relations, thus far without a single report to a public hearing.

In all four States the administrators of the FEPC laws, as well as businessmen and labor unions affected by them, are enthusiastic in their support.

In New York State, which was the first to pass FEPC legislation in 1945, the work of the State commission against discrimination has won the endorsement of numerous business groups originally opposed to the Ives-Quinn law creating the commission.

The Bronx Chamber of Commerce, an early objector to the proposed legislation, 2 years later endorsed, without a dissenting vote, the following proposition recommended by its board of directors:

That the organization support Federal legislation similar to the New York State law having to do with discrimination practices in employment. It is reasoned that in the interests of society the people of other States are entitled to the same protection as those seeking employment in this and any other State that may have antidiscrimination laws.

This appears in a news release by the National Council for a Permanent FEPC, November 10, 1947.

In announcing the membership's approval, its president, George F. Mand, declared:

This is testimony out of experience. It shows that Bronx employers have learned to live with fair employment and like it. * * * Officials of employers' organizations in Massachusetts have expressed satisfaction with the working of the Massachusetts law, similar in essentials to the New York law.

This appears in a news release by the National Council for a Permanent FEPC, November 10, 1947.

The New York State council of retail merchants, in one of its reports, stated:

When the law was first enacted there was a feeling that our State was attempting to legislate virtue, tolerance, et cetera, which was not the fact, as has been proven again and again in the administration of the statute.

Following the action of New York in 1945, New Jersey also legislated against discrimination in employment that year. In 1946, one State, Massachusetts, followed suit; in 1947, one more, Connecticut. There were no additions to this roster in 1948; but this year, 1949, records four more—Washington, Oregon, New Mexico, and Rhode Island—evidence of a growing realization that FEPC belongs on the American scene as part of the ever-expanding concept of our democratic rights.

To make this progress by the State completely effective, Federal legislation is needed at this time. Resting the case with State legislation would leave the job only partly done. Federal law is essential to reach large employers and labor unions active in interstate commerce. The State commissions have found it difficult, if not impossible, to deal with persons in interstate commerce, unless all the States in which such persons conduct business have fair employment practice laws.

Two examples serve to illustrate this point.

The Goodyear Tire & Rubber Co., Akron, Ohio, prints application forms for all of its plants, asking "race, religion, parent's birth-place, and lineage," and citing as examples, Scotch, German, Hebrew, English, et cetera.

These forms bear the following legend: "This application blank is not to be used in New York, New Jersey, Massachusetts or Connecticut"—the only four States, which, prior to 1949, had fair employment practice laws.

On the other hand, the New York, New Haven & Hartford Railroad passes through three States which do have such laws. When complaint was made that the railroad discriminated by refusing to employ Negroes in its grill cars, the three State commissions acted in unison to effect a settlement, without resorting to any publicity.

Only a Federal law can assure workers of all States the same safeguards which those of a few States already enjoy.

The Fair Employment Practice Commissioners from New York, New Jersey and Massachusetts, testifying before a committee of the Eightieth Congress, agreed that "The full fruition of any State law against discrimination will not be completely attainable until uniformity and support are supplied by like national legislation."

Experience indicates that the greatest opposition to fair employment practice legislation stems from a misunderstanding of what FEPC does and how it operates.

No proposed law, either State or Federal, suggests that any employer is required to hire Negroes, or to hire any other group.

Jews or members of any other racial, religious or national group. Nor does it require any employer to hire a certain percentage of any group, for there is no quota plan attached to any FEPC legislation.

An employer may hire whomever he pleases, so long as he does not reject an otherwise qualified applicant because of his race, religion or national origin. The same freedom and the same single limitation applies to training, promotion and discharge. FEPC grants no special privilege to any group; it merely safeguards workers against discrimination.

It is sometimes contended that FEPC creates labor difficulties. Here, again, the facts prove otherwise. The overwhelming majority of labor unions stand strongly behind legislation for fair employment practices. Furthermore, legislation placing the weight of government behind the extension of equality, helps to educate workers and reduce bigotry. Almost always, when difficulty was anticipated in adding members of minority groups to the labor force, such difficulty failed to materialize.

The same experience has been true of stores, hotels and places of public accommodation, many of which feared they would lose customers upon introducing colored workers to their staffs. Almost without exception, such fears proved unfounded.

Americans have always guarded zealously their freedom from government interference, viewing with suspicion—and rightly so—anything which they felt might represent an encroachment. But government interference is not involved here. Fair employment practice legislation puts a few, reasonable limitations upon us, in order to insure greater freedom, greater equality and greater prosperity for all. It was John Foster Dulles who summed up this position so well when he stated:

Most of us in the United States believe strongly in free enterprise but sometimes we forget that freedom and duty always go hand in hand, and that if the free do not accept social responsibility, they will not remain free. The right of our enterprise to be free will in the long run depend upon whether free enterprise recognizes a duty to provide men with equal opportunities. Industrial freedom cannot indefinitely survive as license to discriminate against men because of their race, color or religion.

That was in an address by John Foster Dulles, New York, March 6, 1948.

I have here a summary of the pending congressional bills for fair employment practices, outlining their basic provisions as the American Jewish Committee understands them. I should like to include this summary in the record, with the statement that, of the bills thus far drafted, the American Jewish Committee considers the Powell bill, H. R. 4453, and its companion in the Senate, the McGrath bill, S. 1728, as preferable. We would, however, like to see these bills amended to include "ancestry" among the grounds of discrimination covered by the statute.

Mr. POWELL. The summary of pending FEPC bills will be included in the record.

(The summary is as follows:)

SUMMARY OF PENDING FEPC BILLS IN THE HOUSE OF REPRESENTATIVES

The proposed "Federal Fair Employment Practice Act," H. R. 4453, introduced by Mr. Powell of New York, declares that it shall be "an unlawful employment practice for an employer" who is engaged in interstate or foreign commerce and

who employs 50 or more persons, "to refuse to hire, to discharge or otherwise to discriminate against any individual with respect to his terms, conditions or privileges of employment, because of such individual's race, color, religion or national origin" (sec. 5 (a) (1)). In addition, an employer is prohibited from using any employment agency or placement service which discriminates (sec. 5 (a) (2)). Also, labor organizations having 50 or more members may not discriminate on the basis of race, color, religion or national origin in admission or classification of members (sec. 5 (a) (3)).

A five-man Commission is created within the executive branch of the Government to carry out the purposes of the act (sec. 6 (a)). Any person who believes that he has been the victim of an unlawful employment practice may within one year file a sworn charge with the Commission which is then obligated to investigate the charge and, if the charge is substantiated, to attempt to eliminate the unlawful practice "by informal methods of conference, conciliation and persuasion" (sec. 7 (b)). If informal methods fail, the Commission may order a hearing at which the charges of discrimination will be aired (sec. 7 (c)). In the event the Commission is convinced, after hearing both sides, that the unlawful employment practice occurred, it may issue an order requiring the respondent to cease and desist from such unlawful practice (sec. 7 (j)). If the respondent still refuses to comply with the order, the Commission may apply to the United States circuit court of appeals for an enforcement mandate—in the ultimate form of a contempt of court citation (sec. 8 (b)). Provision is also made for the filing of charges of discrimination by any member of the Commission who has knowledge of an unlawful employment practice. (Sec. 7 (h)).

The bill contains the customary safeguards for separation of the prosecuting and judicial functions of the Commission (sec. 7 (g)), for representation by counsel and protection of the right of confrontation and of cross-examinations, (sec. 7 (d)) and for compliance with the provisions of the Administrative Procedure Act (sec. 7 (i)). The Commission is empowered to appoint staff members; to cooperate with regional, State, and local agencies; to furnish technical assistance to persons subject to the act and to make necessary studies; to assist employers whose employees "refuse or threaten to refuse to cooperate in effectuating the provisions of the act;" to create local, state or regional advisory and conciliation councils for the purpose of fostering community goodwill and cooperation in carrying out the purposes of the law; and to help conciliate the differences and tensions between various groups and elements of the population.

Recognizing the trend of individual States to enact local fair employment practice laws, the act provides that the Federal Commission may, by agreement with any agency of any State, "cede to such agency jurisdiction over cases (which) involve charges of unlawful employment practices" unless the provisions or interpretations of such local statutes are inconsistent with the Federal law (sec. 7 (a)).

Customary provision is made for court enforcement, if necessary, of subpoenas issued by the Commission (sec. 9(d)) and for safeguarding the constitutional rights of witnesses not to be prosecuted for self-incriminating evidence given under compulsion (sec. 9 (e)).

If any Government agency is found to have engaged in an unlawful employment practice, the Commission is required to lay the matter before the President for appropriate action (sec. 10 (a)) instead of applying to the circuit court for an enforcement mandate. The President is also empowered to establish regulations to prevent unlawful employment practices by persons entering into contracts with the United States Government or any of its agencies in cases where such contracts involve more than \$10,000 (sec. 10 (b)). Such executive regulations will be enforced by the Commission.

Persons subject to the act are required to post a notice giving sufficient information about the law to inform employees and members of labor unions of their rights (sec. 11). Penalties by fine or imprisonment are provided only for conviction for forcibly resisting or interfering with agents of the Commission engaged in the performance of their duties under the law (sec. 14).

OTHER PENDING BILLS

(1) H. R. 102, sponsored by Mr. Javits, is substantially the same as H. R. 4453 except that it covers ancestry as well as race, religion, color, and national origin; it provides for a Commission of seven members instead of five; and the express provision for ceding matters to State fair employment commission is omitted.

The Douglas, Fulton, and Dawson bills are identical with H. R. 102 and are in effect the Ives-Norton bills of the Eightieth Congress.

(2) H. R. 371, sponsored by Mr. Celler, is also substantially like H. R. 4453 except that ancestry is included and the term "creed" is used instead of "religion"; "employer" is defined to mean a person employing six or more persons; a five-member Commission is established; it contains no provision requiring conference, conciliation, and persuasion prior to the issuance of a complaint by the Commission; it contains a requirement that nondiscriminatory provisions be incorporated in contracts made with the United States Government or any of its agencies or instrumentalities; and it prohibits the Government or its agencies, for a period up to 1 year, from entering into contracts with persons who have engaged in unfair employment practices.

(3) H. 1728, sponsored by Senator McGrath, is identical in all respects with H. R. 4453 and is the companion bill in the Senate.

Mr. POWELL. We appreciate your testimony.

Our next witness is Mrs. Dorothy Medders Robinson.

TESTIMONY OF MRS. DOROTHY MEDDERS ROBINSON, CHRISTIAN SOCIAL RELATIONS DEPARTMENT, WOMEN'S DIVISION OF THE METHODIST CHURCH

Mrs. ROBINSON. I am Dorothy Medders Robinson, speaking for the Christian social relations and local church activities of the women's division of Christian service of the Methodist Church.

The women's division of this church has consistently supported the principles of State and Federal employment-practice legislation. This support was reaffirmed by the division at its annual meeting in December 1948.

We believe in principle in the right of men to find employment without discrimination because of race, color, religion, or national origin. Belief in this principle stems from our heritage as American citizens as well as from our Christian heritage of human brotherhood. We are proud, as Americans, of our legacy of freedom and understanding that any infringement of it which affects the integrity of our fellow citizens reflects upon the Nation as a whole.

We hold that this freedom is the greatest safeguard against totalitarianism whether at home or abroad. Infinite care is taken of our atomic weapons and billions of dollars are spent for their creation but this greatest bulwark of all, our freedom, is curtailed in curious ways, some of them conscious, some unconscious.

We find it difficult to understand also, gentlemen, how it is that we can continue to practice discrimination in our domestic life and at the same time support the United Nations Organization and a universal declaration of human rights. Such dualism cannot but undermine our integrity in the eyes of the world. Indeed our very freedom becomes a mockery if such continues to be the case.

We are members of the Christian Church. Our faith is that God is Father of all races; that all men are brothers, each of infinite worth as a son of God. We believe that the personality of each individual is of inestimable value and that all institutions should be tested in the light of their effect upon personality.

Inasmuch as lack of employment, as well as discrimination itself, tends to undermine and cause deterioration in the personalities of all individuals concerned, we believe that it is our Christian duty to do our utmost to provide an equal opportunity for all men to earn a livelihood.

Each of us shares in the guilt for the prevalent violation of these basic rights, consequently, we must all share in the responsibility for their removal. We understand that this removal is twofold: (1) In the minds of men, and (2) by law, on statute books. We are asking you, therefore, to enact a law prohibiting the violation of this basic right to work, and you may rest assured that Methodist women will not cease to work for corresponding change in the minds of men.

Pride in national citizenship as well as the demands of our Christian heritage make it imperative that organized women of the Methodist Church support H. R. 4453, a bill to prohibit discrimination in employment because of race, color, religion, or national origin.

Thank you.

Mr. POWELL. Thank you, Mrs. Robinson.

Mrs. Robinson, you speak for the entire body as the result of a meeting at the annual convention of 1948 reaffirming support of FEPC?

Mrs. ROBINSON. Yes; I do.

Mr. POWELL. The Methodist Church used to be divided, and during recent years they have come together?

Mrs. ROBINSON. That is correct.

Mr. POWELL. And now it is a part of the entire division?

Mrs. ROBINSON. That is correct.

And I think I am speaking conservatively when I say that most of the support for such bills as this, or certain legislation as this, or such legislation as this, is coming from the South, from the southern women themselves.

Mr. POWELL. I wanted to ask you that, but you volunteered. I wanted to ask you that because I happened to be a clergyman also, and I know that various women's groups in the South have gone on record in favor of this type of legislation, and it seems to me that the men of the South are trying to hide behind the petticoats of the women but they no longer can do it. The women of the South are away ahead.

I like one sentence you mentioned in the last paragraph of your statement, or next to the last paragraph in your statement, where you say:

We are asking you, therefore, to enact a law prohibiting the violation of this basic right to work, and you may rest assured that the Methodist women will not cease to work for the corresponding change in the minds of men.

I like that. I know just what you mean.

Mrs. ROBINSON. You can take it both ways, Mr. Chairman.

Mr. POWELL. Mr. Burke?

Mr. BURKE. I have no questions.

Mrs. ROBINSON. Thank you. You can consider that as a generic term, and also as the people who must be chiefly acted upon, I think.

Mr. POWELL. Thank you ever so much.

Our next witness is from the Americans for Democratic Action.

Will you give the lady's name who accompanies you?

Mr. SPAETH. This is Miss Ann Pasternack. She represents 180 chapters of Students for Democratic Action, on as many campuses, and I was going to ask if the chairman would graciously give her a few moments.

Mr. POWELL. Yes.

**TESTIMONY OF OTTO L. SPAETH ON BEHALF OF AMERICANS FOR
DEMOCRATIC ACTION**

MR. SPAETH. I am Otto L. Spaeth. I am a businessman and a member of Americans for Democratic Action. I am testifying on behalf of the organization in support of H. R. 4453, a bill to prohibit discrimination in employment because of race, color, religion, or national origin.

Americans for Democratic Action is an independent political organization of progressives, dedicated to the fullest extension of human freedom and economic security. We are not part of any political party. Among our purposes is to insure that the major parties make good on their promises. It is to urge that members of both parties make good on their promise with regard to FEPC legislation that I am appearing here today.

At its second annual convention in Chicago last month, ADA adopted the following resolution:

A prime item in civil rights legislation must be the creation of Federal and State fair employment practice commissions to end discrimination in hiring and working conditions because of race, creed, color or national origin. We reject any compromise which abandons FEPC legislation. Such legislation should provide legal sanctions for violation and effective enforcement machinery.

This convention decision grows out of our deep conviction that equal employment opportunity is basic to the full realization of democracy—not only by the individual to whom the opportunity must be afforded but by the Nation of which the individual is a citizen. The denial to any of its citizens of fullest economic freedom is a denial of the conscience of a democracy.

The records of this committee and of the Labor Committees of both Houses of previous Congresses are replete with statistical evidence of discriminatory employment practices. I am not prepared, nor do I think it necessary, to add to that report. Both major parties have recognized the existence of this national evil by convention resolution endorsing national FEPC legislation.

There are healthful and hopeful signs that the American people are not only aware of this blight on our democracy but are ready to do something about it. The fact that 10 States and a number of cities have passed measures to eradicate the discrimination evil in employment, points up the necessity for the National Legislature also to act, and to act quickly. The problems of discrimination are national.

It may be argued that the gradual adoption of State FEPC laws makes it unnecessary to have Federal legislation. We in the ADA do not believe this to be a valid argument. It is an argument usually put forth by persons from States that do not have such legislation. It is the argument of those who loudly support State rights but choose to ignore State duties.

I have said that the problems of discrimination are national. They are present in all sections of our country. Goods made or handled by discriminating employers cross all our State lines and are exported. Not just one minority group is involved. Negroes, Jews, Catholics, foreign-born—all are discriminated against in their search for employment and on the job. It happens in varying measures in almost every State in the country where such discrimination is not now unlawful.

The mobility of the American labor force and the increasing interdependence of the multiple operations of our economy point up the need for a Federal pattern, a basic standard for employment rights. This has already been created in at least one important area of employee-employer relations.

The Wagner Act established such a Federal standard to eliminate discrimination against persons simply because they are union members. Despite these provisions of the Taft-Hartley law which return to the States—I think unwisely—the decision in some instances as will deny that labor and management have benefited greatly from the Federal standard set up in the National Labor Relations Act. Comparable benefit in terms of productivity and harmony would result from a Federal standard as set out in H. R. 4453.

ADA has actively worked for State FEPC laws wherever our chapters exist. Our endorsement of national legislation in no way implies a belief that local and State action is unnecessary or undesirable.

We heartily support the provision contained in the proposed law granting jurisdiction to the State or locality where its FEPC law meets Federal standards of equality in employment opportunity. The passage of national legislation should serve as an incentive and guide to those States which do not have appropriate legislation. There is not, nor would there be, any question of encroachment on States' rights.

The operation of the Committee on Fair Employment Practices during the war years when the fullest utilization of our manpower was a military necessity gives the Federal Government an administrative precedent in this field. Its experiences, the success of its functioning, gives too, I believe, strong argument for the creation of a permanent Employment Practices Commission to meet the needs of our peacetime economy.

As a businessman, it has been my experience that discrimination in employment is not only unethical but unprofitable and wasteful. I am committed to the idea that America, to live up to its economic potential as well as its democratic pretensions, must provide jobs at decent wages for all its citizens willing and able to work.

The continuance of discrimination in employment because of race, creed, color, or national origin means the perpetuation of a class of potential workers unable to enjoy the full benefits of our economy and unable to contribute their proper share to maintaining that economy at its highest level.

This is so evident as to need no stress from me. The hovels of Mexican-Americans in our Southwest, the Negro slums of New York, or of Washington for that matter, adequately demonstrates this economic equation. Discrimination breeds poverty, disease, and crime.

It is my complete conviction that were there no fourteenth amendment, the law of God, the moral law would still bind all States and all men. John Calvin said in 1536:

The law of God, which we call the moral law, must alone be the scope and rule and end of all laws.

I happen to be a Catholic. Catholics, too, suffer from discrimination, usually to a much lesser degree than others. But in the Southwest there are more than 2,000,000 Spanish-speaking Catholics who suffer from discrimination and social injustices second only in forms, types, and extent to the pattern which confront the Negro. My deep

detestation for discrimination comes from my religious instruction. I believe all men are brothers because all men have a common Father.

We are today engaged in a great enterprise among nations to insure peace and democracy. We are attempting to make meaningful the concept of the brotherhood of all men.

Six years ago the administrative board of National Catholic Welfare Conference issued a statement on the "essentials of a just peace." I would like to quote a portion of that statement. It has great pertinency to the question before your committee.

It would be constant—

the statement read—

to promote a world reconstruction in which all nations, great and small, powerful and weak, would enjoy their rights in the family of nations, unless in our own national life we recognize an equality of opportunity for all our citizens and willingly extend to them the full benefits of our democratic institutions.

You will notice they do not say "grant an equality." They say "recognize an equality." Equality is a basic right in the moral law; it is not the privilege of an individual or even of the state to grant or to decline to grant it.

I remarked earlier that goods and materials made in plants and shops where discrimination is practiced are exported by us over the seven seas—if only we could export the philosophy outlined above and without apology.

We are inconsistent, Mr. Chairman, in this country with our preachments of equality and our practices of inequality, but more than inconsistent we are unmoral and unwise. We lend comfort and aid to the very forces in the world against which we seek to build ramparts. We create confusion and distrust among our people at home.

Americans for Democratic Action asks this committee to support speedily H. R. 4453, with a recommendation for its approval by the Congress. This issue has been before several sessions of Congress without resolution. The last election demonstrated that FEPC along with the other items in the President's civil-rights program is the will of the people. It must be made the law of the land.

With reference to the Communist bogey, I would like to get this into the record. Even Cardinal Spellman, on down, opposes it, and I should say that should be considerable evidence that there is no such thing involved here.

Mr. POWELL. Thank you, Mr. Spaeth.

Miss Pasternack, you are speaking for the Students for Democratic Action?

TESTIMONY OF MISS ANN PASTERNAK, REPRESENTING 180 CHAPTERS OF STUDENTS FOR DEMOCRATIC ACTION

Miss PASTERNAK. My name is Ann Pasternack. I am a student at the George Washington University in Washington, D. C., and am a resident of Alexandria, Va.

I am representing the 180 chapters of Students for Democratic Action, an organization of high-school and college non-Communist liberals, dedicated to the achievement of freedom and economic security for all people everywhere through educational and political action. One of our gravest concerns, as students, is the question of job opportunities we will face upon graduation.

I worked my way through 4 years of college. This June I will join thousands of other college students and hundreds of thousands of high-school and vocational-school students who will receive their degrees and then turn to business and industry to look for jobs. Many of us have worked very hard in order to be able to receive this chance to put our ability to work for commerce, for industry, and for our country. We don't think the world owes us a living; but we do think our country owes us the chance to make a living in relation to our abilities to prove our worth. Many of us, I fear, will never have that opportunity.

Many of us will be stopped by job applications that demand to know our religion; others of us stopped by applications that demand a satisfactory birthplace of our grandparents; still others stopped by applications that are judged by the answer on the dotted line next to the word "race." The passage of an act to insure us that our job applications will not go into the wastebasket on these grounds is earnestly requested of this Congress by the Students for Democratic Action.

During the war our country was willing and eager to take advantage of the manpower and brainpower that was being produced in schools. Thanks to the temporary FEPC much of this training was absorbed without bias against color, race, or religion.

But what did students who graduated in 1946, 1947, and 1948 find facing them? The Census Bureau warned them that the opportunities for Negroes had dropped off much more rapidly than for whites. Furthermore Negro graduates had to face the fact that a like decrease has appeared in the chance to get or to keep jobs above the level of common labor. These statistics were a severe blow to many who had sacrificed physically and financially in order to get an education—in order to be of some worth to themselves and their country. The statistics that reflect the loss of labor opportunities, the downgrading of jobs for minorities, the barriers to skilled or professional jobs are just a part of the picture. It is impossible to measure in percentages or statistics the tremendous psychological blow that this treatment inflicts on these students who know they will be judged not on their ability but on their religion, their color, or national origin.

The future of these students is inextricably tied up with the economic future of this country. If our contributions are to be blocked by job discrimination, if many of us are held, on racial and religious grounds, to jobs below the level of our ability, the capacity of our country, economically and morally, must suffer. We are the source of the next generation of employees of Government and private industry.

If Government or industry deny us the right to use our ability, they are weakening the very structure of this country and of democracy. We believe we have a most wonderful system in this country; but we also believe that job discrimination is not a worthy part of that system. Unless and until these shackles are done away with, the loss in personal and national economic potential is a loss not only for our country but internationally, for our way of life.

You can insure all of us of the right to work where we are so qualified, or you can look for the same percentage of minorities on relief rolls that we found during the last 20 years.

In 1940 in Minneapolis, for example, 68 percent of the Negroes of that city were on relief. We would much rather you make the first choice, and allow us to return to this Nation, in the form of harnessed energy and ability, some of the strength which she has given us in education.

The contributions we are able to make to our American economy are impossible without legal prohibition of discrimination in employment. Training without the opportunity to apply it is useless. Such a situation makes freedom of education lose much of its meaning.

I know that this committee has been deluged by sets of figures and statistics, but I wish you would, for just a moment, forget all those statistics and think about the thing that makes up this country—the individual—in this case, the individual student.

The young lady I would like to tell you about is a Japanese-American who attended public and high school in St. Paul and graduated with honor grades. During her 4 years at Macalester College, near St. Paul, Minn., she was a brilliant student and received top grades. Her major was sociology; her minor, Spanish.

Upon graduation, she found that there were many openings with Minnesota firms which needed people to aid them in their expansion into South American markets. These openings closed as soon as this young lady's name was revealed or her picture attached to an application blank.

Recognizing her ability, a number of citizens attempted to get her a position but frankly admitted they were stymied because of her race. After many months of job hunting she realized that her 17 years of training and final specialization would be of no help and that the best she could hope for would be a clerical job, for which she is now training in a business school.

If this were multiplied many times, you would have some idea of the discrimination against other minority groups and of the terrible resulting waste.

We do not feel that those who are not qualified should be hired. But our concern is for the many thousands who are and will be qualified but will be denied the right to be employed in the tasks for which we have received training, because of our race, religion, or national origin. We can only hope that you will come to our aid.

Mr. POWELL. That was a very, very fine statement.

I would like to ask a couple of questions of you.

There has been some talk in the past 24 hours of Congress adjourning in the next 60 days and shelving all civil-rights legislation. In fact, there has been almost official announcement.

I noticed your group promptly came back and vigorously protested such action. Would you like to say a word about that now?

Mr. SPAETH. From the standpoint of the national office, I am aware that they are fighting to prevent that very thing, but as to the actual steps taken, I do not know. I flew in from New York to appear here, and I have had no contact with the main office about that. But it certainly will be opposed.

Mr. POWELL. Another question. What is your opinion of this type of legislation, not only as far as it affects employers but as it affects unions?

Mr. SPAETH. Certainly, I think unions, in many cases, have been just as much the transgressors as the employers.

I was on the War Manpower Commission in Dayton, Ohio, during the entire war, and we ran up against a stone wall in giving anything else except token compliance to the fundamental law. On the War Manpower Commission I represented the employer, and at times we had some difficulty with the union representatives on the War Manpower Commission.

Mr. POWELL. We have the same situation in New York City and on the water front. We have murders, fights, and everything.

Mr. SPAETH. Would you like one more case where this thing has worked, a very big field?

Mr. POWELL. Surely.

Mr. SPAETH. In St. Louis University several years ago. Do you know of it?

Mr. POWELL. Yes.

Mr. SPAETH. St. Louis University had an effective color line about 5 years ago and they had a religious retreat lasting 2 days and they were told a great deal about good will and charity and a group of the students walked into the president's office and asked him if under that law, which for instance compelled Catholic Negro parents to send their children to Catholic schools, how they could possibly do that when St. Louis University refused entrance.

The president immediately, and I think belatedly, took a poll of all of the students and they voted overwhelmingly for absolute admission.

I operated the Dayton Tool & Engineering Co. during the war and we had about 25 colored employees and the balance were white. There are no Negro toolmakers. It is a highly skilled craft, and they were not given an opportunity to become toolmakers.

Mr. POWELL. No apprenticeship?

Mr. SPAETH. No apprenticeship. We got a large contract and had to make changes in the plant. It involved closing the toilets in the plant which we had for women. They were all colored. They were not white and colored, but were the toilets for the colored. I didn't know what to do about it, until someone suggested taking a poll, with the result that all of the girls there voted 100 percent to throw them open, and there wasn't the slightest indication of difficulty.

Once this thing happens it will be forgotten in 10 years.

Mr. POWELL. I was talking to the young lady representing the students this morning. About 5 years ago, in 1944, I spoke at the University of Texas. Mr. Homer Rainey was president at that time. He said, if the adults would leave you all alone for one generation, you could solve this. We are the ones that pioneered this.

Miss PASTERNAK. I think one of the most interesting things we have found has been the intercollege debates with nonsegregated and Negro schools equally participating in debate tournaments, and there has been no question anywhere and the same facilities were offered both.

Mr. POWELL. One final thing. In answer to my friends in the South, this bill does not say one single word about the abolition of segregation. There is nothing in this bill about abolishing segregation. This is a bill to end discrimination.

I think if my friends in the South would know that and understand that they would feel better about the whole problem. They feel it is to break down segregation. It is not. It is to end discrimination.

Thank you ever so much.

Our last witness for this morning is former Justice Stephen Jackson of New York City. I have asked him to come here because of his wide experience in New York in his work among juvenile delinquents. Would you state your former work for the benefit of the record?

TESTIMONY OF STEPHEN S. JACKSON, FORMER JUSTICE, DOMESTIC RELATIONS COURT OF THE CITY OF NEW YORK, AND DIRECTOR OF THE BUREAU FOR PREVENTION OF JUVENILE DELINQUENCY

Mr. JACKSON. My name is Stephen S. Jackson, former justice of the domestic relations court in the city of New York for a period of 10 years, which comprises both the family court and the children's court throughout the city of New York.

During that period, I was also the founder and director of the bureau for the prevention of juvenile delinquency, and a similar program has since been set up in the State which was said to have been patterned after that program.

I was also actively engaged on some 25 committees then in the field of child care during my duty in New York City.

I am presently with the Federal Government as consultant with the Federal Security Agency.

Mr. Chairman and gentlemen, I appreciate this opportunity to register my strong approval of the measure which is before you.

I shall address my remarks to a limited phase, but an extremely important one, of the objectives of this bill. I recommend the passage of this legislation because I believe that discrimination, particularly in work opportunities, has an important bearing on the problem of delinquency and crime among the youth of our country, especially the Negro youth.

This belief is based on my personal experience as a judge in the children's court in the city of New York for 10 years and as director of the bureau for prevention of juvenile delinquency, which conducted an office in the center of Harlem.

In the course of my duties in these two capacities, I have had occasion to study the social background and often the complete psychiatric studies of hundreds of Negro children before the children's court and our juvenile welfare council in Harlem. Over and over again I have found in the mental and emotional make-up of these children a strong, bitter sense of hostility and resentment against society, a society which glibly prated of equality to all but which in practice turned an unfriendly, unfair, and unyielding hand against the child and his fellow Negroes; a society which had caused him and his family to be relegated to the relief rolls because too often the breadwinner of the family was the first to be dropped and the last to be hired in employment—because he was a Negro.

Nor is this matter of resentment because of discrimination in employment always a vicarious experience for the Negro youth. I will cite but one instance from my own personal knowledge.

During the height of the war there was an extremely urgent demand for workers in the airplane factories in and about New York. Large advertisements in the help-wanted columns proclaimed the urgency for workers in these vital units in this arsenal of democracy. Eighteen Negro youths amongst a large class graduated from the High School

of Aviation. None of them—not a single one—was able to secure employment.

As chairman of a joint committee interested in the promotion of intergroup relations, I visited some of these airplane factories. I personally was told by those in charge of employment (1) they did need skilled workers; (2) they admitted that our committee could supply workers that were qualified; (3) they frankly admitted, however, that they would not hire them because they were Negroes.

One does not have to be an expert in the field of psychosocial analysis to appreciate the force of the emotional trauma of such crass injustice on a child whose father is in such enforced idleness, or the 18 youths who left the portals of their alma mater with enthusiastic anticipation. Is it strange that such youngsters might develop a hostility to society? Is it not quite understandable that such young people might become, in its literal sense, antisocial against society? An antisocial attitude, when translated into overt, specific acts, is less euphemistically characterized as crime and delinquency. Ironically enough, many of those who decry the so-called crime waves among Negroes are probably among the foremost in opposition to this very bill.

The reason given by these personnel people at the airplane plants was that they were afraid that if Negroes were employed the white workers would object. There would be strife. There would be even possibly a slowing down or a shut-down in the production—I might add for the purpose of making the tools of war being fought for equal rights of the individual. This is the same argument that was advanced 4 years ago when I had the privilege of speaking before the New York legislative bodies in favor of the State legislation for the establishment of a commission against discrimination.

Now, herein lies a secondary benefit that will be derived from the enactment of this bill; secondary, however, only in that it is not the immediate objective of the legislation, but in the long-range results perhaps even more beneficial. This secondary benefit is the dissipation of this bugaboo of the dangers of persons of different races or different national origins working together. This is best effected by actually working together.

A short time ago I was engaged for a special assignment in one of the larger offices of the Government agencies. In this huge office building there are hundreds of workers, a large number of whom are Negro, in what is known as the white-collar group. Almost daily, as I stand in line in the large cafeteria, I see a goodly sprinkling of Negroes along with the whites. Indeed, there are some instances of Negro and white people chatting at the tables together. Far from embarrassment, strife, or violence, it is an entirely normal picture of a group of people eating their noonday meal. The fact is, the best proof that this can be done is in the doing of it.

And so I urge you gentlemen, and your distinguished colleagues in the Congress of the United States, to give an impressive and resounding approval of this important legislation. I respectfully urge that all of you weigh well your responsibility to the youth of this country in considering this particular measure. Nor is it exclusively the Negro youth. For we need only recall appalling instances of intergroup strife and violence that have taken place in widespread places among the different youth groups.

I respectfully submit that a vote against this bill, or a number of votes sufficient to defeat it, will give aid and succor to the enemies of our democratic way of life. The youth of our country are the special object of the Communist propagandist. He would gleefully carry the news of the defeat of this measure to resentful youth minority groups, because it is his purpose to promote friction, hostility, and even violence among these groups.

I urge that the United States Congress by the passage of this bill send back the message that it, the representative of society, has done much to guarantee to their parents and to our American youth, as they look forward to the working out of their eternal destiny, a fair opportunity to market their services, to secure jobs according to their capabilities, and to maintain a standard reasonably commensurate with their dignity as human beings.

Mr. POWELL. Thank you, Justice Jackson.

Before you leave, I would like to say that we worked together in Harlem about 10 years, and one of the trustees of my church was your chief assistant.

Mr. JACKSON. That is right.

Mr. POWELL. That is why I think your testimony is so valuable, because on the basis of your training and first-hand experience there is a correlation between crime and unemployment that is definite and aside from all the other aspects that have been expressed by the other witnesses, and this aspect you have expressed this morning is the most important: That we have a crime situation where there is unemployment, and the same thing is true when you go to the Southwest, where there are a number of Catholics. You are a Catholic?

Mr. JACKSON. Yes, sir.

Mr. POWELL. As I started to say, when you go down into the Southwest, where you have so many Spanish-speaking Catholics, there is widespread crime because of unemployment. It is not a question of whether a man is a Negro or a Catholic, but wherever there is discrimination and resulting unemployment there is a crime wave.

Mr. JACKSON. I am familiar with that situation. I was living in Los Angeles for a year and a half when I was with the motion-picture industry, and it follows the same pattern where you have got, as you have there with this group, as you mentioned, widespread discrimination. It engenders the stuff that crime is made of, the resentments, the frustrations, and the antipathies that are built up in the minds of those discriminated against; and, with a retaliatory stiffness by the other group, it sets the stage for that sort of lawlessness.

Mr. POWELL. This committee must adjourn at 12 o'clock sharp due to the memorial services to be held today. However, we have one witness we can hear in the remaining 20 minutes, and at this time I would like to call on Mr. Julius A. Thomas, director, department of industrial relations, National Urban League.

After hearing Mr. Thomas, the committee will adjourn until 2 o'clock, at which time the Honorable Brooks Hays, of Arkansas, will testify. We will close our hearings tomorrow when Hon. Henry Wallace will testify, as well as representatives of the Jewish Labor Committee; Mr. Charles H. Tuttle; Rev. Samuel McCrea Cavert, of the Federal Council of Churches of Christ in America; Marjorie McKenzie Lawson; John A. Davis; Hon. Vito Marcantonio, and at 2 p. m. our Secretary of Labor, Mr. Tobin.

Mr. THOMAS. Will you proceed?

TESTIMONY OF JULIUS A. THOMAS, DIRECTOR, DEPARTMENT OF INDUSTRIAL RELATIONS, NATIONAL URBAN LEAGUE, NEW YORK, N. Y.

Mr. THOMAS. I would like at the outset, Mr. Powell, to say that we appreciate the invitation to make this statement with respect to the bill and the legislation to abolish discrimination in employment.

My name is Julius A. Thomas. I am employed by the National Urban League, whose offices are at 1133 Broadway, New York City. My position is director of the department of industrial relations. I have been employed in the work of the Urban League for 25 years, having served as executive secretary of local branches in Atlanta, Ga.; Jacksonville, Fla.; and Louisville, Ky. I was appointed to my present position in 1943.

The National Urban League is an interracial agency established in 1910 to advance, through interracial cooperation, the economic and social welfare needs of the Nation's Negro population. The national office in New York is the coordinating unit for a network of local autonomous branches in 57 cities in every section of the Nation. The national organization and its local branches employ 357 professional and nonprofessional workers. The affairs of the league are managed and directed by boards of Negro and white persons representing many religious, racial, and political interests.

The National Urban League functions as a promotional, service, and educational agency. It seeks to organize the leadership of the community behind its program to secure better housing, better health services, better training and educational opportunities, and better employment opportunities for Negroes. Since its organization in 1910, the urban league has concentrated much of its efforts on the employment problems of Negro wage earners. For many years it was the only agency in the Nation engaged in this effort.

In my capacity as director of industrial relations, I am directly responsible for the league's program in this field. Specifically, my work includes establishing contacts with industrial and commercial concerns, large and small, in every section of the Nation, in order to influence favorably the employment policies of these concerns; working with heads of international, national, and local unions to encourage better labor-union practices where the interests of Negro members and job seekers are involved; collecting and interpreting information about the labor market, particularly as it affects Negro workers; and working with Government agencies, such as the USES, the Veterans' Administration, the Civil Service Commission, and other agencies concerned with problems of employment and economic security.

I have gone into considerable detail to acquaint you with the nature and extent of the urban league's participation in activities associated with the problem of employment for Negroes. I have done this because I propose to speak primarily from that background of experience.

We believe Federal legislation should be adopted to prohibit racial and religious discrimination in employment. We believe this legislation should include the best features of the laws now in force in New York, New Jersey, Massachusetts, Connecticut, and the States which have recently enacted similar legislation. Specifically, we believe that Federal legislation should contain the following features:

(1) It should establish an implementing agency independent of any existing Federal agency concerned with the problem of racial and religious discrimination.

(2) It should provide for the use of negotiation and conciliation in all instances of alleged racial or religious discrimination in employment.

(3) It should provide for sanctions or penalties in any instance where the aforementioned procedures have failed to correct the discriminatory employment practices.

(4) It should provide for the acceptance of bona fide complaints of discriminatory employment practices when filed by reputable agencies, public and private, who may wish to file on behalf of the person or persons discriminated against.

Briefly, then, I want to tell you why we believe Federal legislation is necessary to eliminate racial and religious discrimination in employment.

First, it is absolutely essential, we believe, that a man's right to a job for which he is qualified be firmly established in law. Despite some notable instances in which employers and labor unions are beginning to respect this right, there are employment patterns in every community that virtually eliminate workers of certain racial or religious characteristics. Many of these patterns have stubbornly resisted every effort to change them except by law. Let me cite just one example—the merchandising field. Prior to the enactment of antidiscrimination legislation in New York State there was only one major department store that offered employment opportunities to qualified Negroes beyond the customary menial jobs. Today there are scores of competent Negroes working as sales people, assistant buyers, accountants, and junior executives, in many of New York's best-known stores.

This progressive pattern will be found in stores in Boston, Mass.; Hartford, Conn.; Newark, N. J.; and on a much smaller scale in Philadelphia, Pa.; Milwaukee, Wis.; Minneapolis, Minn., and a few other cities. The Urban League has devoted a great deal of time and energy to a program of education and persuasion designed to duplicate this employment practice in other States and cities with practically no success worth mentioning. We are convinced that legislative action will be necessary before any substantial change in this and other similar employment patterns can be accomplished.

Second, we are convinced that the enactment and enforcement of antidiscrimination legislation imposes no further hardship on either employers or labor unions. Since the enactment of the Ives-Quinn law in New York State and similar laws in other States on the eastern seaboard, the national office and our local branches in those States have served as advisors and consultants to more than 100 large industrial and commercial establishments. In that role we have worked with industrial plants, banks, department stores, and other enterprises to assist them in setting up procedures through which Negro and other minority-group workers could be employed.

We have visited their places of business to observe the results of these efforts. We have not encountered a single situation in which the introduction of these new workers has produced a difficult problem. In other words, we believe that any employer, if he elects to do so, can operate his industry or business successfully and profitably, and at the same time employ workers on a democratic basis. The

chief need, as we see it, is motivation. We believe a clear-cut Federal law backed up by State and local legislation where it is needed will provide that motivation.

Third, we believe Federal legislation is necessary to assure the continued employment of Negro workers in many of the occupations and jobs they obtained for the first time during the war. More than 700,000 Negro workers went into industrial employment between 1942 and 1946. Until recently the vast majority of these workers were able to remain in industry. In the past 6 months, however, thousands of Negroes have lost these jobs along with thousands of other workers. In two larger corporations with which we are presently working, recent cut-backs have all but wiped out the jobs held by Negroes, most of whom had job seniority of 5 and 7 years. From practically every local league, we are receiving reports that the present temporary recession has displaced a disproportionate number of Negro workers.

Within a few weeks we hope, and I am sure you do, that many of these workers will be recalled to their jobs. But we face that possibility with the uncertainty and skepticism which have long attended the job-finding efforts of Negroes. We have only to recall the early days of the war effort when Negroes were denied a chance to work even when the labor supply was all but exhausted. We believe, therefore, that the enactment of sound legislation to assure Negroes and other minority group workers a fair chance at an available job is a necessary step which the Congress should take.

Fourth, we believe, finally, that the enactment of antidiscrimination legislation will do more to discredit the critics of the American system than any single thing that the Congress can do. We are no longer an isolated Nation free to conduct its affairs as we see fit. We stand today as a model to freedom-loving people all over the world.

Our industrial genius and know-how have been important factors in raising our Nation to this enviable position in world affairs, I am certain, and I believe you will agree with me that in spite of our unprecedented, economical development, there are areas in our national society from which many capable citizens are almost completely excluded. Equality of opportunity in our economy is one of these areas. As a result of the inequalities in training and employment, a significant proportion of our population is forced to live at a standard far below an acceptable minimum consistent with our productive capacities. This situation we must remedy not only because it has serious international implications but because we must find a way to use the creative and productive resources of all Americans in order to safeguard the Nation's economic welfare.

We urge you, gentlemen, in the name of the National Urban League to enact legislation that will prohibit those un-American practices which deprive part of our citizenry of the opportunity to make its maximum contribution to the growth and prosperity of this Nation. We urge you to open wide the doors of opportunity to every American regardless of his race, religion or national origin.

Mr. POWELL. Thank you, Mr. Thomas. I want to congratulate the Urban League and you personally on the excellent work you have done in the industrial field.

I want to ask you if the unemployment which is rising now is affecting the Negro worker much more than the white worker? Is that true?

Mr. THOMAS. Very definitely so.

Mr. POWELL. What percentage would you say, if it can be boiled down to a percentage?

Mr. THOMAS. Well, it is rather difficult.

Now we see there are 3,500,000 people currently unemployed. We are getting reports from the Bureau of Labor Statistics and from the local urban league branches and upon that, broken it down by races, if we can do it, and it is a very difficult thing to do.

Mr. POWELL. Yes, we know.

Mr. THOMAS. I would say a good 15 or 20 percent of unemployed people today are Negroes.

Mr. POWELL. And tell us what they should be.

Mr. THOMAS. About two and one-half to three times the national ratio of unemployment.

Mr. POWELL. And as the picture gets worse that percentage may increase?

Mr. THOMAS. Definitely.

Mr. POWELL. As one young lady testified this morning, in Indianapolis in 1948, 68 percent of the Negro workers in Indianapolis were unemployed.

Mr. THOMAS. In Omaha recently we discovered that 30 percent of the Negro work force are unemployed. This was 2 months ago and there is no particular reason to believe the situation is going to improve materially.

Mr. POWELL. I was in Omaha myself in March. I didn't get the percentages but I did interview several people there.

Thirty percent sounds like the 1930's all over again.

I would like to ask you one last question.

Mr. THOMAS. Very well.

Mr. POWELL. Before you became director, you worked as local executive secretary in Atlanta, Jacksonville, and Louisville. From your experience then and from your experience now as National Director of Industrial Relations, what do you think would be the effect of passage of the FEPC legislation upon the Negro and white worker relationship in the South?

Mr. THOMAS. Well, I think in any work situation, whether it is in the North or South, when somebody makes up his mind that he is going to do it on a democratic basis, he has no program.

For example, I have just completed an analysis of employment practices in 150 industries, which analysis will appear in the form of a book, I hope, as soon as I can finish writing it. I went into a number of plants in the middle South—Memphis, Louisville, and other cities. I went into the plant of the International Harvester Co. and some of the large national corporations and I saw in those plants some of the best work situations I have seen anywhere in America, and I think I have been in almost every State in the last 6 years. Particularly International Harvester, which has a very forward-looking position on this subject and has completely integrated 26 percent of its production work force in its plant in Memphis and 16 percent in its plant in Louisville and they are employed in every skill from machinist to janitor, and it is much more difficult to get a janitor's job filled than it is to get a machinist's job.

They are members of the union. There is absolutely no separation of the workers in the plant. They work on assembly-line operations and there have been no problems in the work situation.

Now I believe that wherever any industry or any business decides that it is going to operate under the provisions of legislation as it now operates in New York and the other States, there is enough know-how and there is enough procedure that can be used to safeguard him against any of these difficulties we customarily associate with it.

Thank you.

Mr. POWELL. All right. I am sorry we do not have more time for your testimony. I have a number of vital questions I would like to ask you, but our memorial services begin in 3 minutes, so we will recess now until 2 o'clock.

(Whereupon, at 11:57 a. m., the subcommittee recessed until 2 p. m. of the same day.)

AFTERNOON SESSION

Mr. POWELL. The committee will kindly come to order.

I have a statement from the United Office and Professional Workers of America, CIO, and it has been requested that it be included in the record.

Without objection, it is so ordered.

(The statement referred to is as follows:)

STATEMENT OF JAMES H. DURKIN, PRESIDENT, UNITED OFFICE AND PROFESSIONAL WORKERS OF AMERICA, CIO

The United Office and Professional Workers of America, representing approximately 50,000 white-collar workers throughout the country, wholeheartedly supports H. R. 4453, a bill to prohibit discrimination in employment because of race, color, religion, or national origin. We urge its immediate adoption by Congress.

It is our belief that to maintain and to increase the security and living standards of American workers and their families the democratic principle of equality of opportunity must be extended to all segments of the population. To the shame of our Nation, minority racial, national, and religious groups have long suffered the ill effects of discrimination. The time is overdue when congressional action must be taken to wipe out forever this un-American practice.

The UOPWA condemns all forms of job discrimination. Our major concern at this hearing, however, is directed to racial discrimination, because (1) this practice is the most virulent of all, and (2) it affects the lives of a tremendous number of people, some 14,000,000 Negroes.

With the limited means at its disposal, the UOPWA is attempting to break through the barriers to equal job opportunities in those companies with which it has contracts. But even our maximum victories would not scratch the surface of this problem. It is the responsibility of the Federal Government to take the leadership through legislation to guarantee to every man and woman an equal chance to acquire and utilize skills to earn a decent living in accordance with his ability.

The precedent for national action was established in 1941 in Executive Order 8802. The fact that fair employment practices legislation was introduced recently in 18 of the 42 States whose legislatures were in session, indicates that both the demand for and sentiment in favor of such legislation is widespread. The legislative safeguard of the right to a job regardless of race, color, religion, or national origin, however, cannot await individual State action. It is incumbent upon Congress to enact a Federal law immediately to insure its nationwide observance.

H. R. 4453 is predicated on faith in the American people to support just treatment of all groups. It presupposes the willingness and ability of Americans to take corrective measures when undemocratic practices are exposed and condemned.

Sufficient evidence is available in the experience of the defunct national Fair Employment Practices Committee and the States where antidiscrimination laws now exist, that the effect of such measures has been to promote the freedom, unity, and harmony of the people in this country, and thereby strengthen their faith in the democratic processes.

EQUALITY OF OPPORTUNITY IS INDIVISIBLE: H. R. 4453 SHOULD APPLY TO ALL EMPLOYERS

H. R. 4453 presumes an acceptance of the principle of equality of opportunity. That being so, there can be no justification for exceptional treatment. This legislation should be applicable to all employers of workers, regardless of the size or the nature of the establishment.

UOPWA proposes the elimination of section 3 (b) which excludes from coverage employers of less than 50 employees, political subdivisions of the Federal Government, religious, charitable, fraternal, social, educational, and sectarian organizations.

These exemptions cover, for the most part, companies and agencies, predominantly white collar, the major field in which discrimination against Negroes is so widespread. There is no reason why employers of thousands of employees in these areas should not also be compelled to observe so basic a right as that to a job.

RELATIVE ECONOMIC POSITION OF NEGRO AND WHITE WORKERS

Practically all Negroes are dependent upon their wages for a livelihood. The incomes they receive are, therefore, a reflection of the jobs they hold. It is not by accident that a comparison of the relative economic status of the Negro (non-white) and white population reveals the following sharp differences:¹

(1) Median annual wages of workers, by race, 1947

Race	Both sexes	Male	Female
White.....	\$1,980	\$2,357	\$1,269
Nonwhite.....	863	1,279	472

(2) Median annual income of families, by race, 1947

Area	White families	Negro families
Entire Nation.....	\$3,167	\$1,614
Urban.....	3,446	1,963
Rural-farm.....	2,156	1,026

FORMS OF JOB DISCRIMINATION

Job discrimination is expressed in many forms. Some of its major manifestations are:

(1) Outright exclusion of Negro workers, the absence of Negroes altogether in certain industries and occupations.

(2) Employment of Negroes in only the most menial capacity in industry, or on a quota, token basis.

(3) Differential in wage rates for the same occupation.

(4) Lack of opportunity to acquire training to qualify for promotions or job openings.

An analysis of the findings of the Census Bureau over the decades points out sharply the glaring disproportionate distribution of Negro workers among the Nation's occupational groups, with the overwhelming preponderance of Negro workers in unskilled and service jobs.

Although the Negro population constitutes one-tenth of the Nation, 50 percent of all employed Negro workers as of 1947 were concentrated in farming, domestic service and nonfarm laborer groups.²

It is significant that in the white-collar field where employer influence has succeeded to a large degree in retarding trade-union organization, discrimination in employment because of race is the most flagrant. Only an infinitesimal number of Negro workers obtain jobs in the offices of private industry and Government agencies as professionals, clerks, salespeople, and other such positions.

The employment of Negroes as proprietors, managers, and professional workers did increase after 1940, but 7 years later still accounted for less than 3 percent

¹ Current Population Reports, series P-60, No. 5, Bureau of the Census.

² Monthly Labor Review, U. S. Department of Labor, December 1947.

of the total employment in these occupations. Only 5 percent of nonfarm Negro workers were employed in 1947 as clerks and salespersons.³

As of 1947, only 1.8 percent of all employed female clerks and salesgirls were Negro; 2 percent of all employed male clerks and salesmen were Negro. In the professional and semiprofessional categories, Negro males comprised but 2.6 percent of all employed males professionals; Negro females, 6.5 percent.⁴ Stated conversely, the stark fact of discrimination becomes more vivid; the white-collar occupations are 97 percent "illy white."

The distribution of jobs among Negroes has changed but little since 1940, as is shown in the Census Bureau's table below. Indeed, both during and after World War II, Negroes constituted a larger proportion of the country's nonfarm laborer group than they did before the war.

Proportion of Negroes to total employment¹

Occupation	1940		1944		1947	
	Male	Female	Male	Female	Male	Female
	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
Professional and semiprofessional.....	2.4	4.6	3.3	5.7	2.6	6.5
Proprietors, managers, officials.....	1.1	2.6	2.1	4.8	2.4	2.6
Clerical, sales.....	1.3	.7	2.8	1.4	2.9	1.8
Craftsmen, foremen.....	2.6	2.2	3.6	2.2	3.3
Domestic service.....	60.2	46.6	75.2	61.9	61.3	65.0
Other service.....	16.5	12.7	21.0	21.9	22.7	23.2
Farm laborers.....	21.0	62.0	21.1	21.4	16.4	13.8
Laborers (nonfarm).....	21.0	13.2	27.0	35.6	27.0	25.0

¹ Monthly Labor Review, U. S. Department of Labor, December 1947.

The opportunity for Negro workers to apply freely for available job openings is severely restricted. In the State of Illinois 55 percent of all job orders filed with the employment service contain specifications as to race. In Chicago the percentage is 12 percent higher.⁵

Today in California between 80 and 90 percent of all job orders placed with the employment offices specify "white only." The only jobs for which there usually is no discrimination are foundry workers, unskilled laborers, and domestic servants.⁶

The occupational guides prepared by the United States Employment Service frankly admit that job openings for nonwhites in the white-collar field are rare indeed.⁷

A survey recently completed by the Urban League discovered that only 6 percent of the Negro workers in Louisville, Ky., are in the high-income groups of professionals, proprietors, and officials, as compared with 18 percent of the white workers residing there.⁸

In the city of New York, one of the largest centers of white-collar employment, the same general pattern of occupational discrimination exists, with Negro workers concentrated in the lowest-paying menial jobs. According to the latest survey of the Bureau of the Census, April 1947, 35 out of every 100 employed Negro workers (male and female) were domestic and service workers, as compared with 11 out of every 100 employed white workers (male and female). Proportionately, twice as many of all employed white workers found jobs in the white-collar classifications—clerical and sales as well as professional and semiprofessional—as did Negro workers.⁹

Discrimination against Negro women is especially acute. Whereas 45 out of every 100 employed white women in New York worked as clerks and salesgirls, only 13 out of every 100 employed Negro women were so engaged. Three percent of all employed white women earned a living as domestic servants as compared with 30 percent of Negro women.

³ Ibid.

⁴ Ibid.

⁵ Illinois Labor Bulletin, Illinois Department of Labor, January 1949.

⁶ California CIO Council.

⁷ Occupational Guide, Bookkeeper 11, Labor Market Information, U. S. Department of Labor.

⁸ Six Times a Year, National Urban League, April 1949.

⁹ Special Tabulations, White and Negro, New York City, 1947 and 1940, Bureau Census.

In the home offices of the major screen companies, located in New York, it is estimated that less than 50 out of 3,000 office workers are Negroes.

The private social agencies throughout the country also practice discrimination in their employment policies. Here, too, Negroes are employed in the greatest numbers as maintenance help. The overwhelming majority of Negro professional workers must depend upon these agencies which service an all-Negro clientele for positions.

Recently, however, the Social Service Employees Union, local 19, UOPWA, succeeded in breaking through this barrier. Negro case workers are now employed at United Service for New Americans. In addition, this local has received commitments from other agencies to hire Negroes in professional categories as soon as there are vacancies.

In the banking institutions the presence of a Negro worker in other than a menial capacity is a rare sight. Through the efforts of the Financial Employees Guild, UOPWA, a wedge has been made and Negro clerks now hold jobs for the first time with the Royal Industrial Bank, Merchants Bank of New York, and the Amalgamated Bank of New York.

In the direct-mail industry, Negro typists, inserters, and folders are employed in relatively large numbers, but they are denied job opportunities in the most skilled occupations. Despite the fact that through the UOPWA wage increases have been won which have doubled average weekly earnings during the past 7 years, this industry is a source of constant concern to the union.

In New York City, letter-shop workers are paid on a piecework basis with no guaranteed minimum hourly or weekly salary. In recent years, the wage standards of the direct-mail industry has been greatly undermined by the mushrooming of homework. According to a survey recently released by Commissioner Corral, of New York, the ratio of homework typists to letter-shop typists has risen to 7 to 1, the former group receiving rates of pay considerably below that of the latter. High labor turn-over and part-time employment of the regular employees of these firms are now very common. These unsatisfactory working conditions are not only detrimental to Negro workers; they are a threat to the working standards of all office employees, wherever they work.

The insurance companies are another very important segment of the national economy guilty of discriminatory employment practices. These giant combines operate under State charters as "public servants," collecting millions of dollars from Negro and white policyholders. Yet there are no Negro agents on the sales force of the "big three," Metropolitan Life Insurance Co., Prudential Insurance Co. of America, and John Hancock Mutual Life Insurance Co., not even to service Negro debits. (We are not able to ascertain accurate information on the other insurance companies, but in all likelihood, their record is the same.) Only very recently did Metropolitan Life Insurance Co. employ a token number of Negro office workers in its home office in New York City.

That public attention is focused on the prevalence of these undemocratic policies by insurance companies was evidenced in the introduction last January in the New York State Assembly of a bill to prohibit discrimination in employment of "any person in any capacity on account of the race, color, or creed of such person" by insurance companies.

SALARY DIFFERENTIALS

The predominance of Negro workers among the unskilled job classifications cannot be passed off with the contention that they are not qualified to hold white-collar jobs. Unquestionably Negroes are denied both access to professional training and opportunity to acquire experience in many fields. But despite the many barriers erected legally and tacitly, thousands of young Negroes graduate yearly from high schools and colleges. Where educational and training opportunities exist and the Negro has obtained knowledge and skills, he has generally not been equally compensated. This fact was recorded in the report of the President's Committee on Civil Rights which revealed the following:

Median annual income	Negro	White
High-school graduates.....	\$773	\$1,454
College graduates.....	1,074	2,046

*To Secure These Rights, report of President's Committee on Civil Rights, 1947.

This wide differential in earnings obtained among urban workers as well as among the rural nonfarm, as shown below:

Median annual income	Negro	White
High school graduates:		
Urban.....	\$941	\$1,659
Rural nonfarm.....	594	1,596
College graduates: Urban.....	1,245	2,648

One of the most common arguments advanced by white-collar employers in opposition to employment of Negro employees is that white-collar personnel usually have a vis-à-vis relationship with the public, many of whom have prejudices and would resent the presence of or service from a Negro worker. Therefore, the rationale continues, the white-collar personnel must conform with this country's socially acceptable patterns and traditions.

However, it has been demonstrated in offices and department stores, which have seriously accepted the challenge, particularly in New York and other large cities, that after the first few days of "surprise" at seeing Negro white-collar workers, the general public, with few exceptions, accepts the fact of a Negro worker on the same basis as any other worker. Such has been the experience of the United Office and Professional Workers in those instances where through the understanding and strength of its membership it has succeeded in breaking through illy-white employment practices either in introducing Negro workers on the job for the first time or in securing their upgrading. This pattern of integration must be extended throughout America.

NEGRO WORKERS ARE SPECIAL VICTIMS OF UNEMPLOYMENT

It is especially urgent that action be taken at this session of Congress to outlaw job discrimination. As a matter of record, unemployment is rising at a dangerous rate. The loss of jobs among Negro workers is disproportionately high.

During 1946 and 1947, years of high level economic activity, Negroes experienced a constantly higher rate of unemployment than did white workers.¹¹ Last year, according to the Bureau of Census, whereas 3.2 percent of all white workers were without jobs, the percentage of jobless Negroes was 5.2 percent.

Two years ago, in New York City, 13 percent of Negro workers were unemployed. Only 8 percent of white workers had lost their jobs.¹² Today, in New York City it is estimated that one-quarter of all persons receiving public-welfare assistance are Negroes, although they constitute only 6 percent of New York City's total population.¹³

In the State of Illinois, Negro claimants of unemployment compensation amount to 25 percent of the total, yet Negroes are only 10 percent of the labor force.¹⁴

At the present time in California, the percentage of Negro workers receiving unemployment insurance is almost four times their percentage of the California population. Approximately 40 percent of adult Negro workers in San Francisco and 80 percent in Los Angeles are without work.¹⁵

The duration of unemployment among Negroes is also higher than that of white workers. In Illinois, 64 percent of Negro males were looking for jobs for 6 weeks or more as compared with 55 percent of white males. Negro women were also jobless for a longer period than white women.¹⁶

It should be noted the figures quoted above are based on the records of the divisions of unemployment compensation. These statistics do not measure unemployment among such large groups of workers as domestic servants and farm workers, one-half of the Negro working force.

¹¹ Population—Special Reports, series P. 40, No. 5, Bureau of the Census.

¹² Monthly Labor Review, U. S. Department of Labor, December 1947.

¹³ Current Population Reports, Bureau of the Census.

¹⁴ Special Tabulations, White and Negroes, New York City, 1947 and 1940, Bureau of the Census.

¹⁵ United Public Workers of America, CIO.

¹⁶ Illinois Labor Bulletin, Illinois State Department of Labor, January 1949.

¹⁷ Research series, Bulletin 28, Department of Employment, State of California.

¹⁸ Illinois Labor Bulletin, Illinois State Department of Labor, January 1949.

As the job market tightens, the difficulty Negroes experience in finding work becomes more acute. A national fair employment practice law which outlaws the barrier of race will improve immeasurably the chances of Negro men and women to obtain work in accordance with their ability. Such a law will help to remove the unfair disproportionate burden of economic duress which discrimination has heaped upon the Negro worker forcing him to resort to charity and public assistance to maintain himself. It will enable 14,000,000 citizens to improve their standards of living so that they, too, may have access to decent housing, adequate food, good health, and all other such conditions available to white America.

All American workers have a stake in this legislation. The enlightened trade-union movement has long recognized that the color bar is an instrument to check and weaken the unity of workers in their struggle for better working conditions and higher living standards. The fullest measure of security for each worker and his family cannot be realized so long as any segment of the Nation's labor force is relegated to poor jobs and low pay. To protect and extend trade-union gains, equality of job opportunity must be achieved.

Enactment of H. R. 4453 will be a major step in making full citizenship available to the Negro people by giving substance to our principle of freedom and equality. Passage of this bill, without weakening amendments, will inspire faith and hope that the United States has the courage to meet a crucial test of its democratic leadership.

Mr. POWELL. We have the Honorable Edward H. Foley, Jr., Under Secretary of the Treasury, and Mr. Alvin W. Hall, Director of the Bureau of Engraving and Printing; Mr. James Hard of the Treasury Department, and Mr. L. C. Lawhorn of the Civil Service Commission.

If the gentlemen will kindly come forward. I want to thank you for coming again, and we appreciate it.

Mr. LAWHORN. The chairman of our board, Mr. Moffett is here.

Mr. POWELL. We are very glad to have him with us. We are happy to welcome you, Mr. Moffett.

TESTIMONY OF HON. EDWARD H. FOLEY, JR., UNDER SECRETARY OF THE TREASURY; ALVIN W. HALL, DIRECTOR, BUREAU OF ENGRAVING AND PRINTING; JAMES HARD, TREASURY DEPARTMENT; AND L. C. DODD, EXAMINING DIVISION OF THE CIVIL SERVICE COMMISSION, ACCOMPANIED BY GUY MOFFETT AND L. C. LAWHORN

Mr. POWELL. I would like to make this as informal as possible, and I have compiled some data since I saw you last, concerning the Bureau, and if it is agreeable with you I will go into this data now, and you may continue with the letter which I sent to Mr. Foley through the mails.

Mr. FOLEY. Mr. Chairman, I have your letter with which you enclosed certain questions which you asked Mr. Hall, the Director of the Bureau of Engraving and Printing, and he will address himself on that this afternoon.

I have turned the questions over to Mr. Hall and he has prepared the answers to the questions and we are prepared to go ahead and testify in respect to the matters you addressed to us.

Mr. POWELL. All right.

Mr. HALL. The first question was: "What positions in the Bureau may be filled without reference to civil-service lists?"

The answer is: None, except in the event the Civil Service Commission is without a register of eligibles, at which time temporary appointments are authorized pending the establishment of a register.

Question No. 2: "Since there are 6,000 employees in the Bureau, of whom over 3,000 are Negroes, how is it that the apprentice training program, consisting of about 1,000 workers who are being trained for higher rating positions, includes only one or two Negroes? Furthermore, why do the several hundred supervisors only include one or two Negroes?"

The answer is: It was testified at the hearing before the subcommittee on Thursday, May 19, that there were approximately 1,000 employees in apprenticable trades, not 1,000 employees in an apprentice training program, as the question implies. In other words, the 1,000 employees referred to have already served an apprenticeship and were appointed in the Bureau either from the civil-service registers or by the transfer of employees who have a civil-service status from other departments.

There are at the present time 26 Negroes in supervisory positions. A list of their names is attached.

Mr. POWELL. Could I have those now, please?

(The list referred to is as follows:)

Negro employees occupying supervisory positions in the Bureau of Engraving and Printing, May 25, 1949

	<i>Position title</i>
Mrs. Ida L. Roberts.....	Head messenger.
Robert Tate.....	Foreman of laborers.
Percy A. Waddell.....	Do.
Paul J. Cook.....	Do.
Morris H. Barlow.....	Do.
McRae Williams.....	Do.
Joseph D. Ashton.....	Do.
John N. Proctor.....	Do.
Wilbur L. Wilson.....	Do.
Harry Vincent.....	Do.
Helster M. Fisher.....	Do.
Joseph H. Lewis.....	Do.
Ray Lee Brown.....	Do.
George J. Fleming.....	Do.
Ellas W. Plummer.....	Do.
John W. Boyd.....	Do.
Josie A. Dickson.....	Forewoman of laborers.
Mrs. Esther E. Brown.....	Leadwoman elevator conductor.
Mrs. Marian E. Morgan.....	Do.
Jesse Swain.....	Supervisor of ink mixers.
James F. Ball.....	Leadman freight haulier.
Robert B. Bates.....	Do.
Hule D. Bryant.....	Do.
Halley Graves.....	Do.
Gibbs Reed.....	Do.
Charles Snowden.....	Do.

Mr. HALL. I have some more questions and answers.

Mr. POWELL. All right.

Mr. HALL. The third question is: "After you left the hearing room on Thursday, the subcommittee heard testimony which stated that only a few of the bureau's 3,000 Negroes hold clerical positions, although many of them passed the only required civil-service examination to get their lower-rating jobs, and are eligible for promotion. What is the explanation for this?"

The answer is: There are at the present time 14 Negro employees holding clerical positions.

Some few years ago, C. M. workers recruited through the Civil Service Commission had to suffer a demotion in earnings to transfer to a clerical position for the reason that the C. M. workers were paid for overtime work, whereas clerks, although working overtime, received no extra compensation.

During the period of the war, Negro women who were recruited for positions in the C. M. service were offered assignments to CAF-2 clerical positions, and only two accepted. Later both asked to be assigned to the C. M. service. One was not released by the division head owing to the need for her services and is still in a clerical position. Appointments are now made on the basis of applications received from C. M. workers.

The turn-over in the clerical force is very low, and in recent months the only appointments made were to typist positions. The Bureau held noncompetitive examinations, and all the Negro employees who qualified (four) have already been appointed to typist positions.

Mr. POWELL. Is there a difference between a supervisor and a foreman?

Mr. HALL. The title of supervisor would apply in general to a foreman as well as any person directing other employees.

Mr. POWELL. About how many people are employed as head messengers and foremen, leadwomen, supervisors and leadmen?

Mr. HALL. Their names are on the back.

Mr. POWELL. I mean the total. I mean the entire total, irrespective of race. Irrespective of race, how many employees are in the Bureau as head messengers and foremen, leadwomen, supervisors or leadmen?

Mr. HALL. Oh, I would say approximately 600, perhaps more.

Mr. POWELL. You have a supervisor for ink mixers; so there is a title called "supervisor"?

Mr. HALL. That is correct, sir.

Mr. POWELL. And you say, "leadwomen, leadman, foreman, and head messenger are the same as supervisor"?

Mr. HALL. The same duties are assigned to them, directing the work of others.

Mr. POWELL. The class called supervisor, is that the only class to which a worker can bring a complaint?

Mr. HALL. Oh, no. A complaint can be brought to a foreman or anyone in a supervisory position.

Mr. POWELL. These people are chosen on the basis of seniority and ability and training?

Mr. HALL. Not necessarily. Seniority is only a factor when all other qualifications are identical.

Mr. POWELL. What are the factors?

Mr. HALL. Their ability—

Mr. POWELL. I accept that. Seniority, ability, and training.

Mr. HALL. Those are the factors that enter into it. Seniority is not the sole factor entering into it.

Mr. POWELL. Out of the 3,000 Negroes, there are 26 supervisors, and the balance, roughly, are what?

Mr. HALL. There are only 210 supervisors in the whole Bureau. People holding supervisory positions include assistant heads of positions, foremen, supervisors of ink mixers, and so forth.

Mr. POWELL. And, of those, there are only 210?

Mr. HALL. There are only 210 in the entire Bureau.

Mr. POWELL. Earlier you said there were 600.

Mr. HALL. I thought you were referring to the 600 under the direction of the 26 people.

Mr. POWELL. Oh, no. I am sorry. There are 210 supervisory positions?

Mr. HALL. I estimated at the previous hearing that there were 200, but there are 210.

Mr. POWELL. And, of course, about 26 are Negroes?

Mr. HALL. Yes, sir; 26. May I read this statement?

Mr. POWELL. Go ahead.

Mr. HALL. This is in answer to the question you put the other day. You asked the question, "How many supervisory positions"—that means the foremen—"How many supervisory positions in the Bureau could be filled without taking another civil-service examination?"

Mr. POWELL. That is right.

Mr. HALL. That number is 88; and, of those 88 positions where another examination is not necessary, 26 are Negroes, or 29½ percent.

Mr. POWELL. I just want to interrupt you there. No civil-service examination, however, is necessary to be promoted to a supervisory position?

Mr. HALL. To certain positions; yes. There are 60 in that category.

Mr. POWELL. Sixty of the two hundred and ten who would require a noncompetitive examination?

Mr. HALL. That is correct; 63 of the 210 come up from the trades, and they must have served an apprenticeship.

Mr. POWELL. What do you mean by a noncompetitive examination?

Mr. HALL. The Civil Service Commission representative can explain that very briefly.

Mr. DODD. A noncompetitive examination is one administered to an individual employee who has been selected by his employing agency.

Mr. POWELL. In other words, you cannot undertake the examination until he is selected?

Mr. DODD. That is correct. The agency nominates the individual and indicates him to be the most capable of performing the duties of a higher position or a lateral position.

Mr. POWELL. The agency is supposed to do that?

Mr. DODD. The agency nominates the individual to the Civil Service Commission for the noncompetitive examination to be administered to him, and him only, which they have a perfect right to do under the civil-service regulations.

Mr. BURKE. May I ask, of what particular use is a noncompetitive examination if the employee is already selected?

Mr. DODD. He is selected and nominated to the Commission. The Commission determines, on the basis of that nomination, whether or not the basic background and qualifications, of the individual proposed, qualifies him to perform the duties of the higher position or the lateral position.

Mr. BURKE. Does not that pretty much degenerate to a technical affair, then?

Mr. DODD. I would not say that. I would say a common-sense affair. For example, the Bureau of Engraving and Printing has some labor-

ers, and they propose to take a laborer by a lateral transfer to what they call a skilled-helper position, and the situation may be where a man has been employed as a laborer for 2 or for 8 years, probably, but he has been associated with the Bureau of Engraving and Printing, and as a skilled helper he will then be in a higher capacity. In that kind of noncompetitive examination, the man, by reason of his association, is adequately qualified to perform the duties of a higher job.

We give no open form of competitive examination for skilled-helper positions.

Mr. BURKE. Let us say a man is connected with an agency for 8 or 10 years, and he is working at a skilled trade, an apprentice trade, what other background could the civil service find that would be applicable as long as the agency for which he works—

Mr. DODD. Simply by reason of the fact he has extensive experience in the skilled phases of the trade, not the training phase, but the skilled phases, and by reason of the fact that he is marked out by the agency as suitable material for a supervisor, and he has demonstrated evidence of his supervisory qualifications, and that constitutes the noncompetitive examination.

Mr. BURKE. Then supposing the Civil Service Commission should find that, as the result of this noncompetitive examination, they felt they could not certify—I do not imagine that happens probably but about once in a million cases, and probably you have not had a million cases yet—but suppose they do find that he is not qualified by reason of his not passing this background or noncompetitive examination, then the agency becomes insistent on their stand that they want that particular individual in that particular position; then they do not have to fill that particular position at all, is that right?

Mr. DODD. They may decline to fill the position, but they cannot assign the man to that position and have him paid for the services in that position without the approval of the Civil Service Commission.

Mr. BURKE. I understand now.

Mr. POWELL. I just want to get this point clear. You can only give this noncompetitive examination to individuals who have been referred to you by the Director of the Bureau?

Mr. DODD. That is correct.

Mr. POWELL. Any difficulties would not fall upon the Civil Service Commission at all, if there were any?

Mr. DODD. That is right.

Mr. POWELL. About what percentage of those are not certified, would you say?

Mr. DODD. I am afraid I cannot give any percentage estimate at all because, after all, I represent only a comparatively small segment of the Commission's examining function.

Mr. POWELL. What is your particular function?

Mr. DODD. My particular assignment is staff adviser to the Chief of the Physical Sciences Section of the Examining Division.

In physical sciences we include engineering, physics, chemistry, meteorology, and so forth.

Mr. POWELL. All the physical sciences, naturally?

Mr. DODD. And, as an adjunct to the engineering, my special area is in industrial and skilled trades.

Mr. POWELL. As regards your relationship to the Bureau, you would only be concerned with those people who are being referred to you for a noncompetitive examination for a skilled or semiskilled promotion?

Mr. DONN. Yes, a skilled or semiskilled promotion; and my area would not be involved, for example, in any printers' assistants nominated for noncompetitive promotion to supervisory clerical or supervisory operative positions.

Mr. POWELL. Therefore, Mr. Hall, you have only referred to the Civil Service Commission, of the 3,000 Negroes who are there, these 20?

Mr. HALL. None of the 20 had to take an examination.

Mr. POWELL. Then you have not referred any?

Mr. HALL. I do not recall how many have gone over.

Mr. POWELL. It has been testified the number that has not been accepted is almost infinitesimal.

Mr. HALL. That is possibly true.

Mr. POWELL. Therefore, it is logical that an infinitesimal number has been referred?

Mr. HALL. I would agree to that.

Mr. POWELL. What is the reason for that, Mr. Hall?

Mr. HALL. The bulk of the positions filled from this group are low-grade positions, and they come in under a low-grade examination, and there are not many opportunities for that group to go in a supervisory position.

Mr. POWELL. Why?

Mr. HALL. Take, for example, the Plate-Printing Division, alone. The Plate-Printing Division has in the neighborhood of 900 Negro printers' assistants, all women, and all of the sections, of necessity, are supervised by foremen of the plate-printing trade, so there are 900 of that Division alone that are stymied, so far as getting a supervisory position in the Plate-Printing Division.

Mr. POWELL. Why again would they be stymied?

Mr. HALL. There are approximately 900 working as printers' assistants in the Plate-Printing Division, and they must be supervised by a man of the plate-printing trade.

Mr. POWELL. Why?

Mr. HALL. It is a technical operation, and the foreman of that operation is a plate-printing foreman; and, therefore, that group in the Plate-Printing Division are not available for supervisory positions.

Mr. POWELL. Let us take clerical or operative positions.

Mr. HALL. As I pointed out in my report that you have there, at the first part of the war Negro women were recruited for positions. Most of the clerks are old employees who have been there for years, and the turn-over is extremely low.

Mr. POWELL. That is usual?

Mr. HALL. That is correct. In the early days, when clerks were not given overtime pay, the C. M. workers had to take a reduction to get in a clerical group, and the Negroes would not aspire to that position. Now the clerks are getting overtime pay, and we have Negro clerks in some of the divisions now.

That particular situation is working out satisfactorily, I think.

Mr. POWELL. You think some progress is being made?

Mr. HALL. We have made wonderful progress, I think, in the last 3 or 4 years.

Mr. POWELL. Mr. Burke has a question.

Mr. BURKE. I want to ask Mr. Dodd this question—we talked about noncompetitive examinations—can an agency in making a supervisory appointment or intending to make a supervisory appointment certify or request the Civil Service Commission to carry on a noncompetitive examination not open to the general public, but to the employees of that particular agency and that particular trade?

Mr. DODD. That would be a very special procedure. There is no such thing in our normal regulations as a competitive-promotion examination, which this, in effect, would be. We have it in only one department of Government, the Navy Department, in the field service, where specific arrangement is made through which we conduct competitive-promotion examinations by individual Navy field establishments for promotion from journeyman ranks to the supervisory mechanical positions. There is no such arrangement with any other agency of Government, nor do the civil-service regulations provide for such a thing.

Mr. POWELL. In your Government upgrading procedure, do you take into account service with the Government? In other words, seniority, is that a prime consideration?

Mr. DODD. I would not say a prime consideration.

Mr. BURKE. It is a consideration?

Mr. DODD. I think Mr. Hall gave the answer to that a while ago when he said seniority, type, and quality of service, and the general over-all qualifications of the individual as demonstrated on the job, are three of the factors taken into account in promotions by non-competitive examinations.

Seniority is not, to answer you specifically and exactly, the primary factor.

Mr. BURKE. The oldest employee in the point of service is not, then, the first considered, necessarily?

Mr. DODD. Definitely not necessarily.

Mr. BURKE. That is all.

Mr. POWELL. You said in the last 3 or 4 years you had appointed about 10 Negroes in the clerical division?

Mr. HALL. Fourteen.

Mr. POWELL. How do you make it possible for a worker, say, in the Production Division, to become an apprentice?

Mr. HALL. When the Civil Service Commission has a register of apprentices, we recruit them through that channel.

Mr. POWELL. You do not take them at all, otherwise?

Mr. HALL. No, sir; not until they have taken an examination and qualified as an apprentice, for an apprentice assignment in either the Government assignment or the Bureau.

Mr. POWELL. You mean you have not taken any of your employees?

Mr. HALL. We have never done it; no, sir.

Mr. BURKE. You mean even if they were willing to take a wage cut?

Mr. HALL. No; we do not. The Civil Service establishes the registers.

Mr. DODD. We have held departmental examinations for apprentice positions in Washington, D. C., principally and fundamentally, for the Government Printing Office and the Bureau of Engraving and Print-

ing. The Government Printing Office had for many years an apprenticeship system and an apprenticeship school, and we had open examinations to recruit, and the Bureau of Engraving and Printing also had one, but not comparable in size to that of the Government Printing Office.

Mr. HALL. May I make a correction? The printers' apprentice register we use was established for the Government Printing Office and not the Bureau.

Mr. DODD. The apprentice, and not the printers' assistants.

Mr. HALL. The register for apprentices was established for the Government Printing Office, and we use that register for making appointments to the Bureau.

Mr. DODD. And the Bureau of Engraving and Printing was a participant in using that.

Mr. BURKE. Is there any factor that would preclude the possibility of a present employee of getting on that register as an apprentice?

Mr. DODD. There is no register now. The latest examination was held before the war.

Mr. BURKE. That is not what I am interested in. I mean if there were a register.

Mr. DODD. If we had a register, no person could obtain a position on the register except he be a disabled veteran entitled to have it reopened to him under the Veterans' Preference Act of 1944.

Mr. BURKE. Let me ask you this—maybe I am not getting my ideas across of what I am trying to find out. Suppose we have no register. That, I understand, is a sort of waiting list to fill positions; is that correct? We have no register, but we find we are going to need certain apprentices, machinists in the navy yard, or electricians at Indian Head, or some place like that, and we are going to put on an apprentice program because we find those trades are getting short of skilled mechanics, and we feel the Government itself has a certain responsibility to help fill those trades with skilled mechanics. So, we do want to put on a definite apprenticeship program. So, as I understand it, the Civil Service Commission then publishes or posts on bulletin boards, in post offices and other buildings throughout the country, that an examination will be held for apprenticeships in these various trades.

Mr. DODD. Correct.

Mr. BURKE. The people who are working, we will say, in the Washington Navy Yard or the Philadelphia Navy Yard, who might be working as sweepers or chippers, or what not, or people who are working in the Bureau of Printing and Engraving as printers' assistants, are they barred from taking that examination?

Mr. DODD. They may enter that open competitive examination providing they are within the prescribed age limit.

Mr. BURKE. Then will their service in their agency count or credit in any way toward their examination?

Mr. DODD. None whatever, because there are no requirements for entrance to an apprenticeable trade. It would be silly to impose a requirement that a man must have had 2 years of experience in a trade before he can go in as a formalized apprentice and learn that trade.

Mr. BURKE. Of course, it would be an advantage to have someone who knows the agency, and knows what the work is about.

Mr. DODD. That is a possibility, but he may never be reached for certification for an appointment in that agency. He may be reached

in the Government Printing Office before the Bureau of Engraving and Printing gets down to his name on the list, for example.

Mr. BURKE. When I started out as a nut splitter, my experience as a lathe hand did help out a little.

Mr. DODD. But that is not an apprenticeable position.

Mr. POWELL. It does not hurt, though; does it? Does not experience help aptitude?

Mr. DODD. Normally it should; yes.

Mr. POWELL. You say the register for apprentices is now exhausted?

Mr. DODD. It expired long ago because the examination from which the latest register was established was held in 1939 or 1940.

Mr. POWELL. When did it expire?

Mr. DODD. As of the 16th day of March 1942, when the war-service regulations became effective, superseding the normal civil-service regulations, we expired all existing registers, as registers from which competitive appointments could be made, because after that date no competitive probational appointments were made for the duration of the war.

Mr. POWELL. Have you had any apprentices placed in the Bureau since 1942?

Mr. HALL. Oh, yes.

Mr. POWELL. How did you get them?

Mr. HALL. We took the names from the register.

Mr. POWELL. You said the register had expired.

Mr. HALL. We took boys who had passed the examination as an apprentice.

Mr. POWELL. But you said—

Mr. HALL. We did not want war-service appointees as apprentices. We wanted somebody with a permanent status to come in as an apprentice.

Mr. DODD. May I clarify one thing?

Mr. POWELL. Just one minute. As of 1942 you did not have to take people from the expired register for apprentices?

Mr. HALL. Not necessarily; no. We would have to do without apprentices, otherwise. We would have had war-service boys on our hands.

Mr. POWELL. War-service boys did a lot of good work, you know.

Take the case of a man now who is in your Bureau. He has all kinds of experience of training, having been trained by the Government itself, and is trying to get a job with you, and has been trying to get one for 4 years as an apprentice. He cannot get a job, but you are still using the expired list rather than take the man who is not a war-service employee.

Mr. HALL. I do not know what the case is.

Mr. POWELL. Mr. X is a skilled helper now, and he has been in the Bureau since 1940. He served in the United States Navy, and has qualified as an electrician's helper, and has had thorough schooling in electricity. He came back from fighting in the Navy in 1945, and he has consistently since then asked for a position as electrician, and has not gotten the job as yet.

Mr. HALL. We have not taken on any apprentice electricians since I have been in the Bureau.

I am speaking now of the journeyman and men who have filed applications for electricians from other departments of the Government.

We have a long list of applications of men, and all of them skilled tradesmen, who are applying for positions as electricians in the Bureau.

Mr. BURKE. How many skilled electricians do you have?

Mr. HALL. About 45.

Mr. POWELL. There are no Negroes at all in the skilled-crafts department of the Bureau?

Mr. HALL. There is one painter. We made him a painter.

Mr. POWELL. You did not take men from the Bureau?

Mr. HALL. We took that man from the Bureau. He is a very good man, by the way.

Mr. POWELL. You do take people from the Bureau, then, when they are qualified?

Mr. HALL. We have another young Negro coming along who will be a painter eventually. We have 900 applications from navy-yard machinists; and we go there, naturally, to get a machinist rather than to train one.

Mr. POWELL. I would like to say that the members of this committee hope to come over to the Bureau maybe tomorrow, or next week, and be shown around.

Mr. FOLEY. Mr. Chairman, I was going to make that very suggestion, and invite the members of the committee who are interested to come any time. I went over to the Bureau on Monday after I appeared before your committee last Thursday. The reason I did that was because in looking at my testimony I went on to read what Mr. Richardson said. I was very much appalled at some of the statements he made insofar as segregation and things of that character are concerned.

So I went over to see for myself, and I would like the committee to come down to the Bureau at any time at your convenience, and make a personal inspection, because I think you will be satisfied, as I was, when I went over there on Monday, that the conditions that Mr. Richardson spoke about do not exist in the Bureau. We have some pictures here that we took over there on Monday, because Mr. Richardson made a statement about the Negroes being in the back of the room and the whites in the front of the room, which is not so; it just is not so.

Mr. POWELL. What about sanitary facilities?

Mr. FOLEY. So far as the sanitary facilities are concerned, there is no segregation.

Mr. POWELL. It was not just Mr. Richardson who said that, but I have heard that since I have been here as a Congressman for 8 years, and people have been coming here for many years and bringing it to my attention, by scores and scores of workers, and they were lined up here the other day, and they told me, "This is it."

Mr. FOLEY. That is why I would like you to come over there. There is not a single sign anywhere in the Bureau that says "Colored Room" or "White Room" and the whites and Negroes stand in line and go in and use the same facilities.

Mr. POWELL. Would you be adverse to us coming over, or any members who desire to come, at such a time as we could be shown around not only by members of the supervisory group, but also have some of the employees accompany the group?

Mr. FOLEY. We would be glad to arrange that any way to suit your convenience.

Mr. POWELL. I think that is the next step to take.

One last question. This is just being asked from the standpoint of Government economy and efficiency, and that sort of thing.

The Civil Service Commission has now decided to hold competitive examinations in the Bureau that have been occupied by the thousands of women during the war period, is that right?

Mr. DODD. The examination has actually been held for printers' assistants.

Mr. POWELL. And that is a position now held by about 2,000?

Mr. DODD. Between 1,800 and 2,000, I think.

Mr. HALL. 2,200, I think. That includes men and women.

Mr. POWELL. This examination is around skills needed for the job, or normal academic training?

Mr. DODD. There was no element of academic training involved. The man who would normally represent this particular phase of our problem is sick and unable to be here today, but I have this more or less limited knowledge of the test which was devised.

Mr. POWELL. Is it possible now that the examination has been taken for a copy of that test to be put in the files of the committee?

Mr. DODD. Normally, no. Our civil-service tests are strictly confidential. Before the test was actually prepared, representatives of our test development section visited the Bureau of Engraving and Printing and made a rather critical analysis of the performances of the jobs of a printer's assistant, and operative, and on the basis of that study and information from the Bureau of Engraving and Printing, designed the types of test items best calculated to demonstrate aptitude, because there is no experience requirement, either, as well as no educational requirements.

Furthermore, before that test was actually administered formally in the examination rooms, it was tried out on a representative group within the Bureau of Engraving and Printing.

Mr. HALL. That is correct.

Mr. DODD. And I do not think I am going off the reservation in saying that when the persons were designated to take that try-out test those of the top group of employees were selected, and also intermediate and low-grade workers in equal numbers. I would not like to testify on anything other than that, but that is my understanding of it.

Mr. HALL. That is correct.

Mr. DODD. This being an item out of my normal operating field, I would not like to comment further on that.

Mr. BURKE. I would like to ask a question. This has nothing whatsoever to do with discrimination, as such, or anything of that sort, but I just want to get some of the background.

I understand, then, that the war service employees unless they have passed the examination will be replaced?

Mr. DODD. Unless they pass the examination or, in their numerical order on the register, come within reach in the certification as to enable them to be given probational appointment.

Mr. BURKE. How far over their heads is the sword hanging? In other words, is there a cut-off date, or anything of that sort, for war-service employees?

Mr. DODD. There will be when the register is actually established. The Bureau of Engraving and Printing will be notified all of their

war-service or temporary employees must be replaced by a given date, but I cannot prescribe the date at this time.

Mr. BURKE. The net result is this, that these employees, some of whom have been in the service, will have no job security, as such, by virtue of the fact that they have been on the job?

Mr. DONN. That is correct. The war-service regulations put out on the 16th of March 1942 gave notice to that effect.

Mr. BURKE. Was that by Executive order or act of Congress?

Mr. DONN. Executive order.

Mr. BURKE. That is all.

Mr. POWELL. Under Executive Order 8800, if Members of Congress find cases of discrimination in the Bureau, could they report those cases directly to you?

Mr. HARR. Yes, sir.

Mr. POWELL. We appreciate your coming over, and one day we will come over on the scene.

Mr. FOLEY. I think that will be fine, because I think a lot of the statements that have been made here have been made by people who have never been in the Bureau of Engraving and Printing. I would say, Mr. Chairman, that the working conditions and the employment conditions in the Bureau of Engraving and Printing today are as far advanced, and favorable to the things we are talking about, as they are anywhere in this country, in or out of government.

Mr. POWELL. They would have to be if they were going to be satisfactory to our President.

The Honorable Brooks Hays.

Mr. HAYS. Thank you Mr. Chairman.

Mr. POWELL. We have been looking forward to you coming before us with a great deal of pleasure.

Mr. HAYS. Thank you, sir, very much.

TESTIMONY OF HON. BROOKS HAYS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. HAYS. Mr. Chairman and members of the committee, I appear today in opposition to the proposal to establish a Fair Employment Practices Commission. It is not my purpose to treat in detail the technical phases of the problem of discrimination. The subcommittee is thoroughly conversant with these matters. I do wish to emphasize the fact, however, that I am opposed to discrimination and I recognize that minority groups are adversely affected in certain respects by discriminatory practices. I am entirely sympathetic with the movement to secure for racial and religious minorities full rights under the Constitution. The differences relate to the method.

Mr. Chairman, I know that emphasis is often given to things we oppose. I would prefer that emphasis be given to things I favor. It is inevitable in any issue as controversial as this that the negative attitude will receive the high lights, but I would much prefer the committee remember the things I favor rather than the things I object to, and I should also like to add at that point that it has given me some pain to find myself in opposition to the efforts of a minority group—a racial group with whom I have worked in the South—in a matter that is of such importance to them. I have not enjoyed that

position. I have spoken frankly and sincerely, but I have spoken with some sensibilities, and I feel, if I could make some contribution to the clearing of the atmosphere, I would make a contribution more important than any technical advice or counsel I might offer. I think it is more important at this stage that we all create an atmosphere in which the right solution might be sought than if we came up with the perfectly correct answer on some of these specific questions.

While opposing the pending bills, I have in mind certain alternative proposals which I trust will receive consideration of the committee. It is my opinion this committee has an opportunity to render a great public service by rejecting coercive measures which will result in aggravating the problem and to recommend, on the other hand, a constructive approach carefully defining that limited Federal aspect of this general problem.

Congress cannot give adequate consideration to the proposed remedies without taking into account the relationship of the following specific proposals: (1) Regional variations in social and economic problems; (2) the controversy growing out of the President's message on civil rights; and (3) current economic trends relating to employment.

I should like the privilege of making a brief statement of my keen personal interest in the problem of securing for minority groups their full rights in our political and economic system. I have some pride in my efforts in past years to secure for all groups, particularly the southern Negro farm population, the highest opportunities for advancement. My record in the United States Department of Agriculture evidence this interest. I think the chairman knows perhaps I was a member of the staff of the Farm Security Administration for many years.

Mr. POWELL. You did a good job.

Mr. HAYS. Thank you, sir.

I know that it is difficult for members of the majority group to understand fully how a denial of a right affects the thoughts and feelings of one who has reason to think such denial is attributable to race or religion. Feeling this difficulty, some of the spokesmen of the minority have gone so far as to suggest that it is impossible for a member of the majority racial group to divest himself of the last vestige of prejudice against the minority. I do not agree with them, but I understand how the impression originates. I make only the claim for myself, and those who have expressed approval of these views, that we have tried sincerely and diligently to rise above prejudices. I think this may be settled by compromise. I mean by that we would damage the minority substantially if we set in force, as a result of the passage of questionable laws, reactions on the part of the employers and fellow workers that would cancel out any theoretical gains from a Federal law.

I am limiting my remarks largely to the southern situation where almost 10,000,000 Negroes, or 70 percent of America's total, make their residence. What the white people of the Southern States think about Federal authority being extended to this field is of tremendous importance. To disregard their thinking and the pattern of life to which the races are conditioned, would be a tragic mistake. No one familiar with the situation in the South will question the statement that legal penalties against southern employers and labor organizations for fail-

ure to conform to regulations prescribed in Washington will retard the whole trend toward nondiscrimination and improved race relations in the region.

The opposition to this legislation is often identified with the resistance generally evidenced in our section to President Truman's so-called civil-rights program. It is impossible to disassociate the plan from the issues revolving around the President's recommendations.

I will not undertake here to distinguish between the criticisms of the message which I regard as meritorious and those which are questionable. I do concede that there is merit in some of the President's recommendations. I insist, just as vigorously, that the passage of this particular proposal would be disastrous. It is a step toward "stateism" which our people have every right to ask us to oppose. Neither can this view of the problem be regarded as sectional. The strongest indictment I have seen of the FEPC came from Mr. Donald Richberg, of Illinois, who said of the penalty aspects of FEPC—

Unless the Government is to destroy economic system of competitive freedom and social system of free association, it cannot undertake to interfere with the selection of one's associates in work or play.

Finally, Mr. Chairman, the answer to the employment problem of the national minorities is in advanced educational methods in the public-school system, in industry, and Government, and, most important of all, in maintaining a flexible and stable economic system.

There is no power in Government that will create adequate opportunities for employment in industry and agriculture unless the economy itself is thriving. Consider the practical angles. Put a law of this kind upon the books with the threat of Federal court action against the violation and 9 out of 10 employers will find legal ways not to employ Negroes for the reason that they will thereby be relieved of having to explain the discharge of Negroes in slack times. Every employer will conclude that if he does not hire them he will not have to account for firing them. It will defeat its own purpose.

My own opposition is directed primarily toward the coercive and penalty features of this proposal. I do not oppose the use of Federal service in counseling for nondiscrimination and in pursuing educational methods in the Department of Labor or some other Federal agency that might be invoked for the economic aid of Negroes and other groups.

The success or failure of FEPC laws in the 10 States that are experimenting with them does not help us much in this problem. Those States have authority to deal with such problems. The authority of the Federal Government is constitutionally limited and, in my judgment, should not be extended beyond a coordinating and educational service as an auxiliary function of established agencies.

That concludes my formal statement, Mr. Chairman.

I have been authorized to have inserted in the record a letter from the Honorable James I. Dolliver, a Member of Congress from the Sixth District of Iowa, who writes me as follows:

DEAR COLLEAGUE: Having given considerable attention and study to your proposal with respect to fair employment practices, I am persuaded that your proposal is the proper answer for this very difficult and perplexing domestic issue. It is altogether true, alas, that good morals and friendly attitudes cannot be legislated. An advisory, rather than compulsive, commission on fair employment practices, would be ultimately far more effective, in my opinion.

Since it is not possible for me to appear before the committee at the time set, you are at liberty to use this letter as an expression of my views on the subject.

Before submitting to any questions that the committee might wish to ask, I would like to fortify something I said about the spirit in which I approach this problem, and I am sure the committee does take at face value my statement about personal opposition to discrimination. If the chairman will recall, in my speech on February 2 I spoke specifically of situations where it had occurred. I know that the ideal of equal opportunity for equal performance cannot be questioned. It is an ideal that must be pursued; however, it is not a reality yet. It isn't limited to race or religion. It applies to other groups. We have had difficulty in securing for certain feminine and handicapped workers compensation for their employment on a par with their fellow workers, and I think that that analogy will stand.

I emphasize that, Mr. Chairman, because I am extremely anxious that those living outside the South understand fully how interested the thoughtful people are in correcting discriminatory practices where they occur; how interested we are in preserving basic principles of government and how our devotion to those principles is not to be interpreted as negating our ideals on the question of fair employment.

I say that in justice to my own people who have, I think on the whole, applauded the efforts I have made to contribute to this atmosphere of good will in which, without rancor and bitterness, we can find a solution of the problem.

It isn't any lack of interest, therefore, in the Negro worker that leads me to say that many of the grievances of which he complains must be a matter to engage the city council and State legislature and not the Congress of the United States.

I am sure you will recall the work of the wartime FEPC in the Sun Oil Co. in Houston, Tex. I say it is significant not only because it demonstrated some skill on the part of the mediator, but the potential good will and management in the South generally to attempt to adjust policies in labor unions and management and find new avenues of employment for the minority groups.

Now there were no weapons used by the FEPC, I think, in that instance. I mean there were no coercive features. It was done by counseling, and that is as far as I think the Federal Government ought to go. I don't know how much good that will do. I think it is something for the proponents of the fair-employment-practice plan to ponder as to just where accomplishment ceases and counterirritations and damages commence.

I think that the acceptance by the Congress of the type of coercive program that some have advocated would create this counterirritation that would cancel out all the gains, and I therefore urge the committee not to recommend such a proposal.

I do not apologize for suggesting that a compromise is right in this instance—one short of sacrificing principle; compromise is the right solution. I fear, though, that the Congress has been driven, as a result of the agitation, into a difficult situation and that the only way that we can help in this great effort to restore faith in government is to crush through the barriers of partisan politics and sectionalism and find that basis for compromise.

If one side—we will say the proponents in this case—insist upon having their way, every thoughtful observer in Washington knows that

a filibuster, to the extent that the rules permit, lies ahead and no good will come from it, and that is not said in criticism of those who use the rules to delay legislation that they regard as disastrous. I am speaking of a very real parliamentary situation.

I have a letter from a professor of a great southern institution who encouraged me in my purpose, and here is a thing that he says that I like very much. He says:

Two thoughts occurred to me about your plan for very general findings rather than specific recommendations. I once heard an English jurist who said that he considered his responsibility to be just only slightly exceeding his responsibility of giving the appearance of being just, and the Congress would hearten the minority group, if even withholding that larger authority that they want FEPC to have, we nevertheless give the appearance not only of doing justice but of being just.

I like that sentence.

I have written to the heads of some of the State commissions on fair employment practices. I have a letter from the head of the New York commission telling me at the time he wrote the letter, a few weeks ago, he had not sought a single conviction for a violation.

Mr. POWELL. That is right.

Mr. HAYS. Now, if working within a small area, those in charge of such a governmental assignment find it unwise to prosecute, then certainly it should not be contemplated under broad policies to apply to half a continent with 150,000,000 people. Certainly there should be something in that experience that recommends itself to the committee.

The heart of any governmental service in doing away with discrimination is the educational and counseling service, and I should say, too, although my opposition is very clear, I do favor a counseling service in the Department of Labor as a compromise. At the same time I am sure that only extra governmental activity will finally bring a solution to this problem.

I think our greatest service is to do a thing indicated here, to give the appearance of concern for minority groups, whether a religious minority or a racial minority, to have that consideration, however, for the majority group which makes your efforts effective and at the same time to point out the significance of our other exertions, to keep our industries at a high level of employment so that conditions are helpful in all efforts for group advancement.

I think the committee can detect in the things I have said that my greater interest is in finding a restoration of the spirit of harmony, and, unless there is a give-and-take attitude, I despair of a solution.

The committee is, therefore, in a strong position to render service and to act with restraint, to act with moderation. In that spirit and that feeling for the people whom I represent, I ask that the people of the area with which I am familiar—the southern part of the United States—be permitted to explore the problem without pressures from an act of Congress.

I appreciate the hearing the committee has given me.

Mr. POWELL. Mr. Hays, we appreciate you and what you symbolize more than we can tell you. We recognize that you are really trying to do something constructive, as you said in the beginning, rather than destructive. This committee has tried to act with restraint in its hearings. There isn't a single criticism of FEPC made by any witness that this committee will not consider in detail when we start holding executive sessions next week or the next week after.

There are many amendments which have been suggested which have been virtually accepted already in our announcements, even though we have not been in executive session, because we believe that nothing can be gained from any form of legislation based on lack of restraint and/or coercion.

There are just a few things I would like to say. In the first place, you have mentioned in New York State that the State Commission Against Discrimination wrote to you through their chairman and said to you that they have not sought before the courts any action on any case. That is true. It is not that they thought it was unwise, according to their testimony here. One morning we devoted a whole session to them.

In fact, the chairman of all of the State commissions who came before us all submitted statements emphasizing the need for enforcement power even though there was never recourse to it, but it wasn't that they didn't use it because it was unwise. They did not use it because it was not needed.

The heart of this legislation must be conciliation. It must be in fact the heart of any legislation of this kind and, in my humble opinion, must be conciliation rather than coercion.

I would like to ask a question of you which is very difficult to answer, I think, because many people I know cannot answer it.

When you speak of majority and minority in respect to this particular legislation I, for one, do not know what that means.

When you talk about minority you undoubtedly mean the Negro people, the Jewish people, the Mexicans, the Japanese, or Chinese. In some sections of this country it has been brought out by Catholic witnesses that they are in the minority. Do you mean Catholics as a minority group? When you add all of those together, that is a pretty large figure, even when you don't count those who aren't included by racial or religious labels—what you call a white Protestant or a white northern Catholic.

There has not been a single group in this Nation that has come before this committee or the Senate committee, no personal representative of the churches, who was against the FEPC.

The Federal Council of Churches of Christ in America, which will be represented tomorrow, is in favor of it. This morning Miss Dorothy Medders Robinson, representing the Christian social relations department of the women's division of the Methodist Church, spoke for this legislation and gave the official position of the Methodist Church, and it is certain that the Methodist Church is possibly as strong in the South as anywhere else, and they are unanimously in favor of the FEPC, and on and on the list grows.

I do not know who this majority is, Mr. Hays, that is against the FEPC. Maybe you can enlighten the committee.

Mr. HAYS. I think the chairman is right. We are all in the minority group at times. You and I are Baptists.

Mr. POWELL. Yes. Maybe I am a hard-shelled Baptist.

Mr. HAYS. If they all gang up on us, then we would be very much in the minority in the world. I know the chairman makes a point. I am wondering if the church groups are not for fair employment.

Mr. POWELL. And you are, too!

Mr. HAYS. Yes, sir.

Mr. POWELL. In fact, you praised the wartime FEPC.

Mr. HAYS. Yes; the noncoercive methods used and the nonpenalty provisions of the counseling service is what I am for, and I think that is what the churches are for.

I doubt if the spokesmen for our churches have ever gotten off and taken an objective look at this business of putting employers in jail or attaching a fine to some violation of some bureau regulation, particularly if that bureau regulation had to be promulgated at a long distance from the place where it is to be enforced. You say you could make out a case for a State program with a penalty provision, but the program like they have in Philadelphia, for example, would still not apply to a Federal situation.

Mr. POWELL. How about interstate commerce?

Mr. HAYS. I am talking about a particular ruling which is remote from the area involved. The fact is, it would be very difficult for enough wisdom to be used in Washington to work out a fair program for employment in Santa Fe, N. Mex., or Little Rock, Ark.

Mr. POWELL. How about interstate commerce?

Mr. HAYS. You are speaking of the constitutional phase of it?

Mr. POWELL. Yes, sir.

Mr. HAYS. Well, I think we would be guilty of legalism if we argued that. I would be willing to concede for the purpose of argument and not beg the question, that you might find a basis for constitutionality, but I insist it would violate the principle of Government flexibility. Until you have had more experience in localities and States, I think you would be treading on dangerous ground in saying the Federal Government could work out a policy of issuing orders forcing employment.

Mr. POWELL. But we do force management to accept employees through our labor laws.

Mr. HAYS. Well, you do not have there what I call indefinable elements of race prejudice and religious preference. Here is a man who is a Seventh Day Adventist, a wonderful little group. He doesn't want anyone but a Seventh Day Adventist to work for him. I think under the system of free enterprise he ought to have that privilege. When he refuses to employ him because he does not happen to be a Seventh Day Adventist, he may be doing the applicant a personal injustice, but we would commit a greater injustice if we promoted a law to force him to employ a non-Seventh Day Adventist.

Mr. POWELL. But under our labor laws, if he is a Seventh Day Adventist—I think Mr. Burke could testify to that.

Mr. HAYS. Excuse me for one moment, if Mr. Burke will yield.

Mr. BURKE. Surely.

Mr. HAYS. I think it would be well to keep the economic and religious ideas distinct, because what might be advocated as an economic policy becomes questionable if it involves an element of religion. That would be my point about the difficulty here. Some of your most difficult situations under FEPC are going to be related to religion rather than race.

Mr. POWELL. I agree with you. I have said all along I did not think the FEPC is aimed at helping the Negro so much as it is aimed at the basic problem of religion.

Mr. HAYS. And of course on the problem of whether you are going to use force.

If you concede, as I am sure you do in your own thinking, that there should be a maximum degree of freedom, you see you get into difficulties because any exemption for small plants in this spotty situation gives advantages in some instances and you are putting others to a disadvantage, and that is such an arbitrary thing that justice eludes you.

I do not see how you can work into the law injunctive powers to sustain an order that certain persons shall be employed or continue in employment without doing terrific damage to this element of freedom in our business system. I just do not see how you can possibly do so.

I have read the report of the Philadelphia organization, Mr. Loescher—

Mr. POWELL. What do you think of that report?

Mr. HAYS. I think he makes a good statement, and he also pointed out that counseling there has been a successful factor in their operations. He says he has been able to get employment in situations because of the law that he would not get otherwise because the employer says, "All right, everybody is going to do it, and I will do it."

I say that you still do not have to have a law. You can do that through the chamber of commerce and through your business organizations so that you get the kind of cooperation that accomplishes the same results without the counter irritant.

Mr. POWELL. I want to cite you an example where we have an employer group, and that is the Chamber of Commerce of New York in the Bronx. They opposed the Ives-Quinn FEPC Act. They did everything they possibly could to defeat it. They even went to Governor Dewey and tried to get him to veto it. Yet, lo and behold, the law is passed and the New York Bronx Chamber of Commerce passes a resolution favoring national legislation on the same subject.

Again, there was a situation brought before us this morning of the International Harvester Co. working in Memphis, Tenn., and Louisville, Ky., where they have 28 percent integration in one plant and 16 percent in another plant, completely integrated work, colored and white working side by side and then comes this quotation, "Some of the best working situations anywhere in our corporation, the International Harvester Co., are in Memphis and Louisville."

Mr. HAYS. I think it would be well to quote at that point Mark Ethridge, since he is a noted friend of justice for minorities.

Mr. POWELL. Yes.

Mr. HAYS. He has been opposed to the penalty provision in the national law. He endorses my plan of a nonpenalty fair employment program, because he said you could get certain coordinated services out of a Federal bureau, but looking at their local situation, Mark Ethridge still warns against a national FEPC.

I do not think I could cite a better authority because of his proven liberalism.

Mr. POWELL. Oh, yes. Mark Ethridge is the top man in his field, but I would rather take the opinion in this particular situation of an employer like the International Harvester Co. which is doing the job on the scene in the South and it is working, than to take a man like Mark Ethridge who, in a certain respect, is in an ivory tower, when it comes to certain relationships.

Mr. HAYS. The International Harvester Co. has plants in States that have FEPC and States that do not have it.

Mr. POWELL. That is right.

Mr. HAYS. Have they not accomplished just as much under a non-penalty set-up as the others? He cites the Memphis situation as a nonenforcement operation.

Mr. POWELL. You are right.

Mr. HAYS. And they speak of Memphis as a notable success, and does not that sustain my point?

Mr. POWELL. I think it boils down to this: I think it sustains, to a certain extent, our points, yours and mine, because I think you favor fair-employment practices without coercion.

Mr. HAYS. That is exactly right. I favor fair employment, period, close quote.

Mr. POWELL. The only thing there is about the question of coercion—and I take my lead on that situation from the commissioners who came before us and said that they had never resorted to it in Massachusetts, Connecticut, New Jersey, or New York; that it wasn't necessary or even requested.

Although I cannot put my finger on it right now, I believe Massachusetts, Connecticut, New Jersey, and Oregon had FEPC commissions without the power to go before the courts, and they found out that it did not work out too well; and those same States have changed and passed new FEPC legislation, Oregon most recently, but the other three had what we call "good will" groups.

I remember the testimony of one witness before us that in the city of Chicago they set up a good-will FEPC, and today the job opportunities for minorities in Chicago are less than they are in the rest of Illinois, because the good-will approach in Chicago is not working out at all.

Mr. HAYS. But you quote the International Harvester Co. and its work in Memphis and Louisville being so fine.

Mr. POWELL. That is right, because when an employer adopts it as a policy, whether he takes it voluntarily or whether he takes it because of the Government, State or National, it works.

The question is to get the employer and the union leaders to accept it as a policy; and if they accept it as a policy, it works.

There is not a single instance—one of these representatives came before us and said if we had such a situation to come to the South, why, pandemonium would break loose. There is no single instance of pandemonium breaking loose during wartime FEPC or peacetime State FEPC.

In fact, this gentleman who was before us, our colleague—I got hold of two newspapers from his city of Birmingham, the Birmingham News and the Birmingham Age-Herald, which are two outstanding papers in that city, and there they have two editorials. "Elemental fairness" is the title of one and "Our Common Masses" is the other, in which they welcome the wartime FEPC coming to Birmingham and saying that it is a sound approach, and finally, at the end, it says:

It is simple elemental fairness to be fair to all racial groups in opportunities for making a living, and that is one of the things this war is being fought for.

It is my opinion if that were true during wartime why should it be any the less true during peacetime?

Mr. HAYS. I think the chairman makes an excellent point there. The significance of that to me is that it reveals the essential sense of justice on the part of the people generally. They want to do the right thing.

If you heard or read my speech on February 2, I mentioned the case of a Negro mechanic who was so skilled in tutoring young apprentices that they used him entirely for that purpose. The young white apprentice, having acquired knowledge, went upstairs when he was through with the course and began to draw more pay per hour than his instructor had drawn.

You could not relate that incident to any man with normal sensibilities without getting the right reaction.

This, not because of the race element, but because I am a fellow human being, and who knows but some Arkansas farm boy might go over there seeking employment who had never been in industry, and somebody would impose on him in the same way. The normal reaction follows, regardless of race or religion. We ought to go out and use that great reservoir of good will to correct it, and not depend on law.

That particular situation involving the Negro instructor has since been corrected, but it did not take a Federal FEPC to do it.

Mr. POWELL. Specifically, before objections are raised do you really feel this is unconstitutional?

Mr. HAYS. Yes. That is my judgment; but you see, in pressing the constitutional question, it implies if it were constitutional I would favor it, and I would not favor it.

I do not want to beg the question. I think we ought to come straight to the heart of the question and I think that the plan I am proposing would have no constitutionality question.

Mr. POWELL. Well, the Federal Government has the right to apply an antidiscrimination program to its Government employees. That is constitutional.

It is all right to regulate employment conditions under the Walsh-Healey Act, employers or firms under Government contracts. That is constitutional.

The Supreme Court in a recent case has held as a national policy, a program against discrimination.

Incidentally, one of the finest authorities on that subject, Mr. Charles Tuttle, will testify tomorrow.

Another objection is freedom of association.

Mr. HAYS. I quoted Mr. Donald Richberg on that.

Mr. POWELL. The truth of it is there is not any such freedom to associate anyhow.

Mr. HAYS. Mr. Donald Richberg makes a very telling point on that. He points out that the worker can always refuse to be employed. It ought to have mutuality. The policy ought to be mutual to that extent. Why should the worker be protected? Otherwise you would have slavery and involuntary servitude.

Then why would you say, on the one hand, the worker cannot be forced into employment, and on the other hand, that an employer can be forced to assume a relationship that labor cannot be forced into assuming?

Mr. POWELL. Well, through the provisions of this bill governing the unions, the unions fall into the same category as the employer.

Mr. HAYS. Again that is on the economic side and this is on the side of religion and race which defy the economic relationship or classification. I think that is the important thing.

Mr. POWELL. One thing I would like, I wish all of our colleagues from your section especially would know and realize this bill does not have anything to do with segregation.

Mr. HAYS. I have not mentioned it, Mr. Chairman.

I think you will admit that the history of this issue is that it does give color to some of the fears that have been expressed. I do not think it can be dismissed lightly. The Baltimore incident in the FEPC record was a very unfortunate thing—

Mr. POWELL. Unfortunate and wrong. They were absolutely wrong to go into that under FEPC powers.

Mr. HAYS. Then, Mr. Chairman, when you concede that, and I am not surprised that you do concede it, you confess the weakness of this approach to the problem, because if a Federal Bureau would make that mistake in Baltimore, they would make it in Atlanta and in Little Rock, and that involves something other than an economic relationship.

Mr. POWELL. Certainly they could make that mistake under an Executive order because they are not accountable to Congress. Under the wartime Executive order there was no review by the Congress. Under this proposal they would be accountable to Congress, but under the wartime Executive order the Congress and the gentlemen from your section had no power under the wartime FEPC to hold them accountable, and I am only surprised that they did not make more mistakes.

I think they did a good job and so do you because you praised them very much.

Mr. HAYS. In the counseling service and in specific situations.

Mr. POWELL. You take the freedom to associate and the adverse reaction of the workers. We know that all through the South today there are AFL and CIO unions where Negroes and white people are working side by side. There is no trouble. They all belong to the same locals and elect officers. I was educated by some of the testimony that has been adduced here by some of the union men that came before us from the CIO telling us that down in Anniston, Ala., and Mobile, and Montgomery, when election comes around they may elect a white president and a colored vice president, a white secretary and a colored treasurer, so where is the adverse reaction? Who is going to have the adverse reaction?

Mr. HAYS. I think the chairman does understand—shall I put it this way—the patterns of social behavior in the South are such that many a white worker would not welcome a colored worker in the same job.

I am speaking now of the realities of the situation and of course we are discussing a delicate problem.

Mr. POWELL. Correct.

Mr. HAYS. I represent 75,000 Negroes, and if I do not represent them with regard and respect, I am not fit to sit in Congress. I have that feeling about it, if you will let me be personal to that extent. They are my constituents, and I would not say a thing to disparage their aspirations.

I want the advancement they make to be a permanent gain and not a phony gain or a temporary gain, and I know as a reality, not dealing with the theory of it, that there are many situations in which the reaction of the white workers with whom they would be thrown would be such that it would be a disservice to the Negro to force him into that employment, a disservice to him, and whatever the weekly wage, it would not be enough to offset the other damage.

Mr. POWELL. Of course you realize one of the things that does keep the wages of some workers down is the fact that they can get Negro workers for the same job and pay a lower wage. Unfortunately, that is true, and when they come together and are able to work together, the white man benefits from it as well. That was testified to by the union representatives from the South as to how their wages had increased by virtue of the fact they refused to let the employer use the Negro as a method of cutting under the living standards of the white worker.

Mr. HAYS. That has been thoroughly gone into, of course. I think, however, no Federal action is required to accelerate the normal correction of that.

Mr. POWELL. Mr. Burke, do you have any questions?

Mr. BURKE. Well, Mr. Hays, probably a few years back I could have agreed with the approach on a purely educational and cooperative basis. However, I have had considerable experience myself in employment relationship, and it is my considered opinion that as one witness, one of the Commission members of one of these States put it, is that he felt it was necessary in his State and he felt that on the Federal level it would be necessary to have this "switch in the closet" provision, as he put it, to back up the educational and cooperative work.

I recognize and realize a great deal of splendid work has been done by well-thinking people throughout the country in educational and cooperative programs, but I think their work has come just about as far as it can come, and this is necessary, and the basis for my thinking on that is that our Constitution as the very basis of our Government being that all men are created equal that they should be given equal opportunity as far as employment opportunities are concerned.

That alludes to one part of the statement that shows you may have a little misapprehension, a little mistaken idea as to the objectives of the bill. The FEPC bill as I understand it, and certainly the way I am working on this subcommittee, does not have as its object the creation of new job opportunities from a numerical point of view. This particular type of legislation cannot create more jobs than are already in existence, and if job opportunities do become available, all this bill proposes, as I understand it, is that race, religion, creed, color, and national origin or ancestry shall not be a condition of employment.

In other words, as a condition of employment of a person, the color of his skin or the church he goes to, or the fact he may have a "ski" at the end of his name or an "O" or a "Mc" in front of his name, is not the controlling factor in determining whether or not he shall be employed for that particular job. In other words, if he fulfills the other qualifications, that cannot be of any moment. That is not a qualification whatsoever. That is my understanding of the purpose of this bill, and I think it is the understanding of all of the members of the committee.

Certainly, we do not think or feel that it will create any new jobs in America.

Mr. HAYS. Mr. Burke, we are dealing here with something that is fundamental, and we cannot dismiss it lightly. We can speak of the "switch in the closet" or the "shotgun in the corner" and we can soft-pedal it to that extent, and we can speak of the fact that counseling will be the principal process, but if there is a penalty provision in the FEPC law, we have created a fear in the hearts of millions of people and it would be a tragic reversal of this trend toward justice, leading us to racial frictions rather than allaying them. No economic advantage to the majority group could ever offset the damage as a result of it and that is the reason I simply cannot understand why we would entertain for a moment a court provision in an effort to work toward a goal, which I admit is a desirable goal. I know we cannot afford to do that.

Mr. POWELL. What about the law which compels parents to send children to school?

Mr. HAYS. It is not in this class at all. Not in the same category.

Now let us get to the point Mr. Burke made. Let us face it. He says he thinks that, in America, the way a man spells his name, or the color of his skin, or the way he thinks, or the church he goes to is not important.

Let us look at the situation in Arkansas. Two of our most successful plantation owners are colored men: one is Theophilus Bond and the other is Pickens Black. I have an idea there are few if any white tenants on their plantations.

Mr. POWELL. I know there are a few.

Mr. HAYS. I would not condemn Theophilus Bond if he would say, "Look, I just want to help my colored folks," and I think it would be hard to make out a case on a moral basis, because he would have a perfect answer, for he could say, "There are plenty of white plantation owners looking for white tenants and I am going to look after these friends of mine. They have had a tough time and a hard job getting anywhere."

He could say it was up to some of the colored folks to look after the colored farmers and I think he should be commended for it. I do not see anything wrong per se in such employment policies. There are some situations in which on the contrary it is quite logical. I would put it on that basis.

Mr. POWELL. I can cite instances of Negro employers to the contrary who feel they are bound otherwise. They feel that because we are trying to get fair-employment practices we should practice it ourselves. I am thinking of it here in my business. I am thinking of my secretarial force here. I am thinking I might bring down a white man from New York as secretary, because I do not see how we can go out and preach these fair-employment practices without practicing what we preach. There are some big Negro businesses and there are some big Negro farmers.

Mr. HAYS. Mr. Chairman, I would be inclined to turn you loose on any situation in New York City knowing you would be coming up with the right answer on the human-relations problems.

Mr. POWELL. But how about in the South?

Mr. HAYS. I am talking about New York City because the New York situation is entirely different. In the southern situation I am afraid I would want to go along with you to see if you were going to come up with the right answers.

I know of course that the impulses of men like yourself who have been up to your necks in this problem could be trusted, but it would take a long time to brief some of you from New York on the regional variations, just as it would take you a lifetime to brief some of us on the problems of New York City.

Mr. POWELL. I would like to say if the FEPC becomes law, I would like to see a southerner the chairman of it and I would like to see one or two others of the five-man commission come from the South. It would be the finest thing that could happen that the President would appoint the majority of the commission from the South, and I have confidence and faith in the South and know it would work just as well if not better.

Mr. HAYS. I would not want to turn any group of southerners loose under a Federal program with any kind of penalty provisions.

Mr. POWELL. I trust them more than you do.

Mr. HAYS. Well, I might call in Will Alexander for advice.

Mr. POWELL. Or, Mr. Patterson from Alabama, who used to be our Congressman from Montgomery.

Mr. HAYS. I think Will Alexander would have some inner conflicts on the problem of force. I have seen him win important victories for the Negroes without force.

Mr. POWELL. I would like for him to be here.

Mr. HAYS. Why would you not turn him loose without the enforcement provision?

Mr. POWELL. Why, because in States where they have good will groups they have had the old familiar merry-go-round. It just has not come through in the employment field. It has come through in other fields, such as right here in Washington in the Department of the Interior.

It is going to work out very fine.

I think we have just about come to the point where we have both expressed our views, and I want to compliment our colleague for his fine presentation.

Mr. BURKE, have you any further questions?

Mr. BURKE. No, sir.

Mr. POWELL. Mr. Sims?

Mr. SIMS. No, sir.

Mr. POWELL. I want to compliment you sincerely for everything that you believe in and have stated, and wherever we do see eye to eye, and I believe we do on most things—

Mr. HAYS. Mr. Chairman, thank you very much for the patient hearing you have given me.

Mr. POWELL. Thank you.

Now, Mr. David J. McDonald was to testify next, but Mr. McDonald has graciously decided to waive a minute or two of his time for the purpose of permitting Congressman Mitchell from Washington to make a statement.

Congressman Mitchell, we are glad to have you present with us.

**TESTIMONY OF HON. HUGH B. MITCHELL, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF WASHINGTON**

Mr. MITCHELL. I thank you very much, Mr. Chairman.

In reference to other testimony which I have heard, may I say that I believe experience in the Pacific Northwest has emphasized the need for an enforcement mechanism in the FEPC legislation.

Mr. POWELL. Yes, sir.

Mr. MITCHELL. To the members of this committee I wish to express my appreciation for the opportunity to appear in support of the FEPC bill, H. R. 4453. The principle of fair employment proposed in this bill is of great interest and concern to me, because of the place it has in the American program of improved welfare and security for all. In testifying for FEPC legislation, I feel that my views will meet with the approval of the great majority of citizens in my State, for our State legislature recently has taken positive action in this field. The same is true of the Oregon State Legislature.

It has been argued before this committee, I understand, that fair-employment-practice legislation would disrupt the economy of the South and cause untold damage and disaster. We cannot deny the vexing problems that would be presented to the South by such legislation. Neither can we deny that progress has been made in improvement of race relationships and in broader opportunities for Negroes. However, I wish to record with this committee my profound conviction that the South will make even greater progress, its people in the days to come will be happier and more prosperous, if its economy is grounded squarely on the principle of equal opportunity for all. No nation, no part of any nation, was ever destroyed by vesting in its government the responsibility for promoting greater equality among its citizens.

Our Nation was founded on the concept that all men are created free and equal, that they are entitled to seek their livelihood and pursue their callings to the fullest extent of their individual capacities. The Old South was destroyed by slavery, not by freedom. The South of today, a region of change and progress, will gain in the long run by utilizing to the utmost the talents, skills, and abilities of all its people.

What I say regarding the South applies equally well to any other part of the country. America is a land of people ever moving in search of greater opportunity, of better livelihood. The interchange of population among States creates special problems in the labor market and responsibilities on the part of Government to keep open the avenues of employment for all people regardless of the color of their skin, the way they worship, or the place they were born. A number of States already have taken steps to minimize discrimination in employment. I am happy to report that the present sessions of the Washington and Oregon Legislatures have enacted FEPC laws, rather similar in their set-up to the bill now being considered by the committee.

In the Pacific Northwest we pride ourselves generally on the fair-minded and democratic way in which we regard all people. As an area of rapid growth, accustomed to receiving large numbers of new settlers, we are eager to facilitate their adjustment and integration into community life. Recognizing that we do have problems of dis-

crimination in employment, some precipitated by the influx of recent newcomers, some of longer standing, we have created a State agency to help in the solution of these problems.

The law passed by the State of Washington this session with bipartisan support is modeled very closely on the one which created New York State's Commission Against Discrimination. I am confident that this law will work successfully in the interests of the greater number of our citizens. Its very presence on the statute books, as a full-formed declaration of policy against discriminatory employment practices, will conduce to the elimination of many such undesirable practices without the need for applying punitive measures.

While this law is important as a declaration of policy, it also provides enforcement machinery, for experience has shown that a policy without the means of its execution will not suffice. The neighboring State of Oregon found this to be true. An earlier law of that State merely declared a policy against discrimination in employment, and, lacking teeth, was unable to make a dent in discriminatory employment practices. Therefore, this year the Oregon State Legislature undertook to give effectiveness to its earlier enacted policy of treating each individual according to his merits. The new measure, signed on March 25, provides for enforcement, after judicial review, by means of mandamus, injunction, or a suit in equity to compel specific performance. Although the measure differs from the Washington law and the bill we are now considering here, in that it provides for administration by the bureau of labor rather than by an autonomous agency, nevertheless it appears reasonable to believe that progress will be achieved in furthering more equitable employment practices in the State of Oregon.

With the history of these and other FEPC developments in mind, gentlemen, I urge you to report favorably on H. R. 4453. It is obvious that today many men and women are denied the opportunity of working in the jobs for which they are best fitted. This hurts them; equally important, it hurts America, both in the direct economic sense of denying to American production the best available skills, and in the moral sense of weakening our claims to world leadership in the ways of democracy. Discrimination in employment is a wastage of human resources and a blight on the democratic spirit. Let us declare as a national policy and be prepared to carry out those democratic and humanitarian principles to which we are already committed by covenant with other nations.

My favorable report on State FEPC laws should not be taken to mean that local measures, however well intentioned and valuable, will suffice to cope with this problem. The problem is a national one because of the national dimensions of the labor market, and legislation on that level is necessary, as with the problems of old age security and labor relations. Local laws are perforce limited in their jurisdiction. The great interstate corporations recruit their personnel, the great national unions draw their membership, from all parts of the country. For personnel supervisor and union alike, a national law is needed to insure adherence to the desired employment practices.

Section 7 of the bill recognizes that State or local agencies have an important place in promoting fair employment. But it is not enough to stop short with local agencies where national standards of decency

and fair play must prevail. Just as collective bargaining is a national policy supported by commensurate legislation, so must we proceed in the case of fair employment practices, which likewise involve our economic and physical well-being, as well as our international security.

Accordingly, I urge this committee to report H. R. 4453 favorably, and express my earnest hope that this Congress will in turn report favorably to the Nation.

Mr. POWELL. Thank you, sir.

The letter Mr. Townsend requested I put into the record this morning has already been placed in the record.

Will Mr. Reid Robinson or any representative of the Mino, Mill and Smelters Workers Union kindly come forward?

We have called for Mr. Robinson and he has not answered and therefore his time has passed.

Mr. McDonald will be our next witness.

Mr. McDonald, if I have to leave in the next 10 minutes, Mr. Burke will take over and you will understand.

I might state that Mr. McDonald will be the last witness for today.

TESTIMONY OF DAVID J. McDONALD, SECRETARY-TREASURER, UNITED STEELWORKERS OF AMERICA, CIO

Mr. McDONALD. My name is David J. McDonald and I am international secretary-treasurer of the United Steelworkers of America, affiliated with the CIO.

I understand some comments were made and some testimony presented concerning some outlandish charges against the United Steelworkers of America. These statements were made by certain men about the United Steelworkers of America, but so far as the members of the committee are concerned I do not believe they are particularly pertinent to the subject under discussion, but I have been called upon to make certain rebuttal statements. I think I can say at the outset that I have no personal knowledge of the employment practices which may have prevailed at the Tennessee Coal, Iron & Railroad Co., ore-mining operations in Bessemer, Ala., area, during the past several years in which an organization other than my own was the collective-bargaining agent. I do know something, in my official capacity, about the activities of the United Steelworkers in the bargaining unit in the manufacturing division of this company in the same area. Our organization has not had and does not now have a union shop or preferential hiring agreement with this employer.

We have not participated in the hiring of employees into our units; we have been and are now unconditionally opposed to any type of discriminatory hiring practice by this or any other employer. At least 40 percent of the membership of our bargaining unit with this company are Negroes. This represents a higher percentage of membership in the union on the part of the colored workers than on the part of the eligible white workers. These figures which I am giving you relate to the bargaining unit in the manufacturing division of TCI which have been represented by the steelworkers since 1937.

Our local unions in the manufacturing division of TCI have Negro officers in various capacities. Some of the oldest and more active members in these locals of our union are Negroes. I know of one instance of a Negro grievance committeeman who has served in that

capacity continuously, I believe, since 1937 and, as any good steelworker would be expected to do, has done an excellent job.

For a period of at least 2 or 3 years, our district office in Birmingham has repeatedly received requests, committees, and petitions from representative groups of red ore miners in the Birmingham, Ala., district seeking to change their affiliation from the Smelter Workers to the United Steelworkers of America.

Over this period of time, the representatives of the United Steelworkers have indicated, on each such occasion, that it was the responsibility of the members of the smelter workers to handle their own affairs within their own union, and that the steelworkers would not raid another CIO international affiliate. On at least one or two occasions, such committees visited Vice President Van A. Bittner in his Atlanta office and were told by him that the steelworkers were not interested in raiding, but were interested only in assisting other international affiliates of the CIO. Similar committees on coming to the Washington office of CIO and of steel, received the same information.

The last contract of the Smelter Workers with the T. C. I. & R. R. Co. expired April 30, 1949, at midnight. In the closing months of that contract, representative groups of the red ore miners repeatedly stated that they would not work again under a smelter worker contract. There are roughly 5,000 ore miners in the bargaining unit which has been previously represented by the smelter workers.

Prior to January 1, 1949, one of the smelter workers locals at the critical sintering plant had withdrawn almost entirely from the smelter workers and attempted to affiliate with other labor organizations, not the steelworkers. They had been previously told by our steelworker district office that the steelworkers would not and could not receive them into membership.

In the early part of the current year, it became obvious to everyone on the scene that the smelter workers had lost their membership and that this membership would seek affiliation elsewhere. Application cards for membership in the steelworkers were continually and voluntarily submitted to our district office and these were cards which had been, without distinction or discrimination, signed by Negro and white employees together. There was no indication from the steelworkers, from representatives of the CIO, or from the district office of the steelworkers that a racial problem of any kind existed.

The steelworkers decided not to issue charters to those employees until after, by free and democratic vote, a majority had indicated their desire once and for all to leave the Mine, Mill, and Smelter Workers. Accordingly, since each of the local unions of Mine, Mill, and Smelter Workers had, in regular meetings, at which there was representative attendance of the membership, voted to disaffiliate from the Mine, Mill, and Smelter Workers, CIO local industrial union charters were issued to each local union. Membership, of course, in these local industrial unions was open to all employees without regard to race, creed, or color. Initial meetings were all attended by both Negro and white members.

However, after it becomes apparent to the Mine, Mill and Smelter Workers officials that their membership was lost, those officials launched a campaign which inspired racial tension and which involved the use of the most scurrilous lies and accusations against CIO, United Steelworkers of America, and the officials of both. On the one hand,

the smelter workers sought to discourage support of the CIO local industrial unions by derogatory reference to the religious faith of Mr. Philip Murray, president of the CIO and of the steelworkers; on the other hand, the smelter workers attempted to appeal to the basest of prejudice by distribution of so-called Klan literature. I believe the committee has been given or will be given samples of that literature. We have a lot available which, if the committee would like to look at, we will supply it, or at least photostatic copies.

The campaign waged on behalf of the local industrial unions was a clean one. Employees were told that a vote for these local industrial unions was a vote for CIO principles, and was a vote in support of our president of the CIO, and of our international union, Mr. Philip Murray. It was made clear in the course of the campaign that if a majority of the employees voted for the local industrial unions, these local industrial unions would subsequently be chartered by the United Steelworkers of America.

The smelter workers campaign involved accusations that the United Steelworkers of America and its officers were company dominated, Klan dominated, and Klan inspired, and that the United Steelworkers did not even admit Negroes to membership. These lists were exposed and attacked by the local industrial unions at every opportunity. However, they resulted, as the smelter workers intended them to result, in temporarily dividing the employees into roughly white and Negro groups, a division that representatives of the CIO and United Steelworkers did not want, and which we will not tolerate. I am happy to say that this division rapidly is dissipating and that the membership in our new steelworkers locals, for which charters were personally issued by me on May 21, 1949, now includes substantial representation of both groups.

District director R. E. Furr and other steelworker officials have repeatedly stated publicly, privately, and in meetings of representatives of the employee in this unit, that applications to the United Steelworkers of America are received from all eligible employees without regard to race or creed, and that all the employees who are to be represented by the United Steelworkers of America will, when steelworker contracts are negotiated, receive the full benefits of those contracts.

In the closing days of the campaign, Reid Robinson and Maurice Travis, officials of the smelter workers, appeared on the scene. On the night before the election, Robinson made a radio address in a local radio station. Previously that day on the air he had, I am informed, referred to me and other officials of the steelworkers as popsicles (and a popsicle is about the most reprehensible term that can be applied to a man in the South), and company stooges, and repeatedly during his speeches to the employees involved he attacked the CIO, officials of the CIO, and officials of the United Steelworkers as being company stooges, Wall Street dominated, and Klan influenced.

On the night in question, George Elliott, an official of one of the local industrial unions and a courageous leader and trade-unionist, also spoke from the same radio station. I was not present. I am informed that several of the representatives of the smelter workers were present and several of those campaigning for the local industrial unions were present. There was a fight. Maurice Travis was struck. It is, I think, of great importance that the other three or four repre-

sentatives of the smelter workers who were present were not harmed or molested in any way. And I venture to guess that had Travis not spoken to Mr. Elliott as he did, even the one first fight which occurred would not have taken place.

Despite the typical Communist tactics which the smelter workers utilized in attempting to whip up racial tension and feeling, the local industrial unions in no way interfered with the right of anyone to vote in the election which was held on April 21. There were 5,201 potential eligible employees to vote, including employees who were sick and on vacation. Actually, 2,696 votes were cast for the local industrial unions, and 2,233 for mine, mill, with only 10 votes for "no union." Nearly every man voted, thus proving conclusively that there were no intimidations or coercions. A much higher percentage of eligible voters participated in this election than traditionally participated in municipal and other political elections in that area. There were absolutely no incidents during the voting. At the conclusion of the voting at each voting place, watchers from both the smelter workers and from the local industrial unions, signed in the presence of the election officials, written statements that the voting had been proper and conducted in accordance with pre-election agreements. It is probably indicative of the character of the men who have been in charge of the smelter workers that, having lost a fair and democratic election, they have now raised the unfounded charges which they make and have deliberately broken their written agreement to abide by the results of such an election.

There was absolutely no Klan demonstration near or participation in this election, or in the area of the election while it was being held. The fact that every eligible employee, Negro and white alike voted almost to a man, conclusively proves that there were no pressures brought and no coercion used to prevent free and proper voting.

In conclusion, I would like again to emphasize, both on behalf of the CIO and of the United Steelworkers of America, that we strongly advocate the enactment of the FEPC bill which is before this subcommittee. A full statement on behalf of the CIO in support of this legislation has already been made by Mr. Willard Townsend, president of the United Transport Service Workers Union, CIO, and a member of the executive board of the CIO. And incidentally, Willard Townsend happens to be a good friend of mine and I resent the scurrilous remarks that have been made about him.

The CIO since its inception has been dedicated to furthering the effective organization of workmen without regard to race, creed, color, or nationality. The provisions of its constitution embodying these principles have already been read to you by Mr. Townsend.

My own organization, the United Steelworkers of America, is equally dedicated to the advancement of the interests of workers without regard to their race, creed, or color. Article II of the constitution of the United Steelworkers of America lists as that organization's first object—

To unite in this industrial union, regardless of race, creed, color, or nationality, all workers and workmen and workingwomen eligible for membership * * *

It lists as its third object—

to protect and extend our democratic institutions and civil rights and liberties and thus to perpetuate the cherished traditions of our democracy.

We consider that the legislation now being considered by this subcommittee is essential to protect and extend the civil rights and liberties of Negroes and every minority group, and we accordingly endorse it and urge Congress to enact it.

Article III of the constitution of the Steelworkers, dealing with eligibility for membership, states in section 1 that—

All workmen and workingwomen, regardless of race, creed, color, or nationality—

employed in the industries within the union's jurisdiction are eligible for membership. Incidentally, the same article also provides, in section 4, that no member shall be eligible to hold any office in the international union or a local union—

who actively participates in the activities of the Communist Party or any Fascist, totalitarian, or other subversive organization which opposes the democratic principles to which our Nation and our Union are dedicated.

The lifelong devotion of Mr. Philip Murray, the president of both the CIO and the United Steelworkers to the advancement of the interests of all workers, without regard to their race, creed, or color, is well known. I will venture to say that the CIO, under Mr. Murray's leadership, has done as much to advance both the economic and the political rights of Negroes as has any other organization in the history of this country. The CIO and the United Steelworkers will continue, in the future as in the past, to organize and represent all workers on a basis of absolute equality, and without regard to race, creed or color.

Thank you very much, Mr. Chairman.

Mr. POWELL. Are there any questions, Mr. Burke?

Mr. BURKE. In the light of the charges and the very serious allegations that were made last week, I really believe that you have given an effective rebuttal to Mr. Robinson's statements.

Mr. POWELL. The fact he is not here is very obvious also.

Mr. McDONALD. I hate, Mr. Chairman, having to be in the position of having to rebut the testimony of Mr. Robinson.

You know we have a clause in the oath of the Steelworkers Union when a man takes an oath he raises his right hand to Almighty God and says if he does not perform his duty he stamps himself as a man devoid of character and destitute of honor. That is the way I feel about the gentleman who came up here and made the awful representations against the Steelworkers.

I wish you would have the opportunity to read the record of the gentleman who made these remarks. He went to an employer and got \$5,000 from an employer while he was president of the union.

The committee of the board members of his own union said, "We say to you, you have committed an unpardonable offense. Face your responsibility. Do what you would demand if any other international officer did that. Resign. Otherwise you must bear full responsibility for dissension and disruption which will weaken our union."

And after that the CIO refused to reelect him as a vice-president. They said the man is devoid of character and destitute of honor.

Mr. POWELL. What you read came from the official minutes?

Mr. McDONALD. These are from the official minutes of the meeting. I simply summarized it. It is 3 pages.

Mr. POWELL. From the Mine, Mill and Smelter Workers?

Mr. McDONALD. From the Mine, Mill and Smelter Workers official minutes.

I am informed now that he tried to get \$5,000 from an employer and the employer turned him down and the executive committee official minutes state that President Robinson has discussed rumors which were current which he felt would be detrimental to the organization and these rumors reflected Mr. Robinson accepted a personal loan from Mr. Pack. Mr. Robinson said he did seek a loan from Mr. Pack but it was an error in judgment.

I would like to know what the Steelworkers would think of David J. McDonald if he went to the president of the United States Steel Corp. to obtain a loan. They would characterize him as a sell-out artist and that is what I would be. I would say it would be a man devoid of character and destitute of honor.

We stand on our record and our record is as I have read it to you here this afternoon.

Mr. BURKE. I knew something about this case because it happened in my home town.

Mr. POWELL. You mean the Robinson case?

Mr. BURKE. Yes.

Mr. POWELL. Do you have any more questions?

Mr. BURKE. No, sir.

Mr. POWELL. Then the committee stands adjourned until 10 o'clock tomorrow morning.

(Whereupon, at 4:30 p. m., the subcommittee adjourned to 10 a. m., Thursday, May 26, 1949.)

FEDERAL FAIR EMPLOYMENT PRACTICE ACT

THURSDAY, MAY 26, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Adam C. Powell, Jr. (chairman), presiding.

Mr. POWELL. The committee will please come to order.

I should like to mention here, in connection with the question of the constitutionality of fair-employment-practice legislation which I discussed yesterday with Congressman Hays, that this matter is covered in detail in Senate Report No. 951, Eightieth Congress, second session, on pages 15 to 19.

Our first witness this morning is Rev. Samuel McCrea Cavert, general secretary, Federal Council of the Churches of Christ in America.

TESTIMONY OF REV. SAMUEL MCCREA CAVERT, GENERAL SECRETARY, FEDERAL COUNCIL OF THE CHURCHES OF CHRIST IN AMERICA

Reverend CAVERT. Mr. Chairman, my name is Samuel McCrea Cavert. I am general secretary of the Federal Council of the Churches of Christ in America.

I appear in behalf of the Federal Council of the Churches of Christ in America, a federation of 27 national denominations with a membership of 28,000,000. The churches of the Federal Council have a keen interest in the welfare of minority groups in our population and for this reason are concerned with justice for them in our economic life. The right of every citizen to support himself and his family by his work is so fundamental that any discrimination on account of race, creed, color, or national origin is a matter of moral and spiritual significance.

I shall not enter into any discussion of the administrative provisions of the bill which you are considering; they are beyond my competence and are not within the area of the primary responsibilities of the churches. I limit my testimony to the basic moral principles which the bill is designed to apply.

The position of the Federal Council of the Churches of Christ in America on this subject is set forth in a statement adopted by its executive committee on March 21, 1944, as follows:

Discrimination in employment because of race, creed, or national origin is one of the great moral issues before our Nation today. The right of the worker to be employed and paid solely on the basis of his character and ability is so

clear, just, and Christian that it should be protected by law. This right should be safeguarded by appropriate legislative and administrative provisions: Be it therefore

Resolved, That the Federal Council of Churches urge our Government to establish permanent procedures for securing objectives which have been sought by the Committee on Fair Employment Practices.

On the basis of this resolution, the executive committee of the council, on May 17, 1949, authorized me to testify at this hearing. In accordance with our procedure which permits any denomination to dissociate itself from any position of the council which it may not be in accord, I make record of the fact that the Presbyterian Church in the United States (Southern) is not included in this presentation.

The general position expressed in the council's resolution, which I have quoted, has been strongly supported for several years by many of the major denominations meeting separately in their official national gatherings. As typical I submit the following:

The General Conference of the Methodist Church, in its quadrennial meeting in Kansas City, Mo., in May 1944, said:

We stand for . . . equal opportunity in employment, upgrading, and conditions of work, in exercise of the full rights of citizenship; in access to professional and business careers, in housing, in transportation, and in educational facilities. We endorse the principles underlying the Fair Employment Practice Committee and urge all agencies involved in the administration of the act to improve that administration.

The Presbyterian Church in the United States of America, in its general assembly in May 1944 went on record as follows:

That the general assembly commend the essential purpose of the President's Fair Employment Practice Committee as being in keeping with Christian principles, and favors its receiving legislative sanction rather than remaining in its present status as an Executive order.

The Northern Baptist Convention in its annual session in Atlantic City, N. J., on May 23, 1947, recorded its judgment in the following terms:

Whereas discrimination in employment because of race, creed, or national origin is one of the great moral issues before our Nation today, and

Whereas the right of a worker to be employed and paid solely on the basis of his character and ability is so clear, just, and Christian that it should be protected by appropriate legislation; and

Whereas this has clearly been recognized in legislation passed recently in New York, New Jersey, Massachusetts, and Connecticut: Therefore be it

Resolved, That the Northern Baptist convention urge the enactment of legislation designed to secure these objectives by other State legislatures and their serious consideration by the Congress of the United States.

The General Council of the Congregational Christian Churches, at its biennial meeting in Grinnell, Iowa, June 18-25, 1946, declared:

Discrimination in employment because of race, creed, or national origin is one of the great moral issues before the Nation today. It threatens the basic economic rights of many individuals. We recognize that the immediate postwar period has brought with it increasing tension between racial and religious groups in our country, and that reduction in employment will tend to work a special hardship on Negro and other minority groups.

We therefore reaffirm our support of legislation constituting permanent fair employment practices commissions for States and Nation, such as will afford all citizens, regardless of race, creed, color, or national origin, equal opportunity to useful, adequately remunerative employment.

The General Synod of the Evangelical and Reformed Church, in session in York, Pa., in 1944, took the same position. Similar views have been expressed by four great Negro denominations—the Na-

tional Baptist Convention, Inc., the African Methodist Episcopal Church, the African Methodist Episcopal Zion Church, and the Colored Methodist Church.

These many declarations of many different bodies during the last 5 years make it clear that there is an awakening moral concern over the question of economic justice for minority peoples in our national life. After having asked Negroes and other minority groups, equally with white, to fight and die for democracy, we cannot, in good conscience, be indifferent to any denial of democratic rights to them at home. One of the most elementary of these rights is the right to equal opportunity to earn their daily bread.

Moreover, the good name of America in the eyes of the world is at stake. If we fail to put our house in order with respect to full economic justice for those whom it is all too easy to discriminate against, we shall play directly into the hands of the Communist attack upon our way of life. The great defense of democracy is always a moral and spiritual defense. Let us strengthen that defense by setting up the necessary safeguards against discrimination in our industrial and economic life.

Mr. POWELL. Thank you, Reverend Cavert.

I have one question. The Presbyterian Church in the United States, Southern, is the only denominational group in the federal council that has dissociated itself in the endorsement of fair-employment practices?

Reverend CAVERT. That is correct.

Mr. POWELL. But other denominations which cover the South, such as the Methodist churches and general synods of other churches, they did endorse it?

Reverend CAVERT. They did, insofar as they are within the membership of the federal council.

I have to add there is one great southern body, the Southern Baptists, which is not a member of the council and, therefore, they are not involved in my testimony.

Mr. POWELL. What other large denomination outside of the Southern Baptists in the South are not included in the Federal Council of Churches?

Reverend CAVERT. I think there are no others.

Mr. POWELL. The Federal Council of Churches represents about how many persons?

Reverend CAVERT. Between 28 and 29 million.

Mr. POWELL. And you, as a minister, feel that that is a moral issue?

Reverend CAVERT. I feel so, very strongly. At least, it is the moral aspect with which my testimony is concerned, and the council is concerned.

Mr. POWELL. Reverend Cavert, thank you so much for coming.

Reverend CAVERT. Thank you, Mr. Chairman.

Mr. POWELL. Our next witness is on the way from the Department of Labor, and the committee will stand adjourned for the next 5 minutes until he comes.

(A short recess was taken.)

Mr. POWELL. The committee will come to order.

Our next witness of the morning is the Secretary of Labor, Hon. Maurice J. Tobin.

**TESTIMONY OF HON. MAURICE J. TOBIN, SECRETARY OF LABOR,
ACCOMPANIED BY WILLIAM T. EVANS, SOLICITOR'S OFFICE, AND
KENNETH MEIKELJOHN, ASSISTANT SOLICITOR, DEPARTMENT
OF LABOR**

Mr. TOBIN. Mr. Chairman and members of the committee, I am very happy to have this opportunity to testify before this committee on legislation designed to eliminate discrimination in employment on the basis of race, color, religion, or national origin.

I have a particular interest in legislation of this type because it was while I was Governor of Massachusetts that the Massachusetts Fair Employment Practice Act, a law similar to the bills now under consideration, was enacted.

Discrimination in employment because of race, color, religion or national origin is contrary to basic democratic theory that a person shall have opportunity in accordance with his individual ability and qualifications. That such discrimination exists in this country, however, is well-known to everyone—too well-known to require at this time the submission of any supporting data in the form of statistics of comparative earnings, occupational distribution and unemployment among the respective racial, religious, and national groups which comprise our population.

We cannot afford to tolerate restrictions upon the economic opportunities of individuals based upon the irrelevant and accidental factors of race, color, religion, or national origin.

With an awareness of the existence of discriminatory employment practices and of the necessity of their elimination, one of the 16 points of the Labor Department's legislative program to improve the economic status of those who work, is the enactment of a sound, fair employment practice act to end job and wage discrimination against minority groups in interstate industries.

The freedom to earn a living without being discriminated against because of race, color, religion, or national origin is as important as the more well-known civil rights and freedoms guaranteed by the bill of rights of the Constitution.

The freedom of speech, assembly, and religious worship are all precious but in order to enjoy these freedoms one must exist and the existence of most of us and of our families is dependent upon the wages and salaries which we can earn. To restrict the opportunity to earn a living on the basis of considerations beyond our control is to deprive us of a right upon which the enjoyment of all our other American freedoms depends. To deprive any person of the chance to make a living is to violate one of the most fundamental of human rights.

We cannot escape the fact that every evidence of the existence of discrimination against minority groups in this country is seized upon and shamefully distorted by exponents of competing political philosophies. Every indication of a gap between our professed principles of freedom and equality and our practices is cited as evidence that our democracy is a fraud and the existence of underprivileged and exploited groups is a necessary part of our economic system.

The enactment of legislation such as that now being considered by this committee would do much to combat this harmful propaganda

by letting it be known that it is the right of all persons in the United States to be free from discrimination in employment because of race, color, religion, or national origin and that it is the national policy to protect this freedom.

We have an obligation under the Charter of the United Nations to promote "universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language, or religion."

The enactment of fair employment practice legislation would be a step forward to the fulfillment of this international obligation.

Aside from moral and political considerations, there are compelling economic reasons for the enactment of fair employment practice legislation. Discrimination in employment subjects large segments of our population to substandard housing, inadequate diets, poor health, inadequate education, and adversely affects the general welfare.

Discrimination in employment produces a vicious chain effect in that it depresses the wages and income of the minority groups, resulting in a reduced purchasing power and potential markets for goods, which in turn results in reduced production.

Reduced production cuts down employment. The impact of discriminatory practices, therefore, is not only upon the immediate victims but upon all of us. Conversely, the elimination of discrimination in employment would insure full and efficient use of all our workers, resulting in greater purchasing power and consumer demand, leading to greater production and a higher standard of living for all. And I can state that the experience of the Labor Department indicates that discrimination has a very adverse effect upon our economy.

I consider that legislation which relies primarily upon peaceful persuasion as a method of dealing with discriminatory employment practices is the most desirable approach to this problem.

The experience of the wartime FEPC and of State agencies administering fair employment practice statutes is evidence that the most effective weapon in combating discrimination in employment is the informal method of conference, conciliation, and persuasion.

This experience also indicates, however, that for those cases in which informal methods are of no avail, appropriate sanctions must be provided. The mere fact that such sanctions may be invoked will be of considerable help in persuading employers and labor organizations voluntarily to discontinue their unfair practices.

We are fortunate that in considering this legislation at this time we have the benefit of several years of experience under similar legislation enacted by various States. In particular the States of New York, Massachusetts, Connecticut, and New Jersey have fair employment practice statutes which resemble this bill in the important respect that they place primary reliance on persuasion but also provide sanctions for use in those cases where persuasion is unsuccessful.

These four States are settling a total of 1,200 cases a year, but not once have they used their powers of enforcement. Not once have they gone as far as public administrative hearing on a complaint.

As one observer of the operation of these fair employment practice statutes stated: "Embarrassment, not harassment or punishment, is the chief sanction—embarrassment over being caught not living up in deeds to the American principles of fairness we all acknowledge in words."

In discussing fair employment practice legislation too many people tend to consider it as something which will benefit only Negroes. While it is true that they are the principal victims of discrimination in employment, they are by no means the only ones.

Jews and Catholics are often discriminated against and there are a number of local prejudices on the basis of national origin.

In the Southwest, for example, Americans of Mexican background are probably the principal objects of discrimination. In this connection, it is interesting to note that the Annual Report of the New York State Commission Against Discrimination for the year 1947 shows that only 68 percent of the complaints filed during the 2½ years that the New York statute had been in effect were based on discrimination against Negroes, 15 percent were complaints of discrimination against Jews, and the remainder, 17 percent, were because of religious or national origin reasons.

While a number of bills to prohibit discrimination in employment have been introduced in the House and referred to this committee, I shall direct my discussion to H. R. 4453. The other bills differ but little from H. R. 4453 but the latter happens to contain several provisions which I consider improvement over bills introduced earlier in this session of Congress.

H. R. 4453 approaches the problem in the manner which I have already described as being, in my opinion, the best approach—namely, primary reliance on peaceful persuasion by which most complaints can be settled “on the threshold.” The powers of enforcement, however, are in the background available for use whenever necessary.

The bill by defining “employer” to mean a person having in his employ 50 or more persons, and “labor organizations” to mean any organization having 50 or more members employed by any employer covered by the bill, wisely prevents the Commission from being burdened by an excessive number of small cases. At the same time its coverage is broad enough to reach a majority of the persons sought to be protected by the bill.

H. R. 4453, by limiting the exemption of State and local governments to their capacity as employers, closes a possible loophole which previous bills had contained by virtue of their broad exemption of State and local governments from all provisions of such bills.

The effect of the limited exemption in H. R. 4453 will be to prevent the possibility of employers evading the prohibition against the use of employment agencies which discriminate by utilizing State and local government-maintained employment offices which operate in a discriminatory fashion.

Section 5 of the bill defines the unlawful employment practices which the bill is designed to eliminate in a manner which leaves no room for ambiguities. Its prohibitions are directed not only against the employer but also against his sources of labor supply, such as employment agencies, training schools, and labor organizations.

The use of such sources which engage in discriminatory practices is made an unfair labor practice. Labor organizations are barred from discriminating against individuals on the basis of race, color, religion, or national origin by limiting or classifying its membership, or otherwise adversely affecting their status as employees and applicants for employment.

While the number of labor organizations which engage in discriminatory practices is limited, there are some that do, and such discrimination should no more be tolerated in labor unions than in any other phase of American life.

An important and desirable provision of the bill is the authority given to the Commission, in section 6, to create local, State, or regional advisory conciliation councils to enable local settlement of disputes. Such local councils have proved very effective in those States having FEPC laws, particularly in connection with the educational and public relations activities of the State agencies.

Another provision of H. R. 4453 not found in earlier bills is the authority given the Commission, in section 7 (a), to cede jurisdiction to the State and local fair employment practice agencies in, I assume, cases which are borderline so far as interstate commerce is concerned, provided the State statute or local ordinance conforms to national policy.

I think that this is a desirable provision in that it will enable the Commission to utilize in appropriate cases the experience in this field already acquired by State agencies. It will also clarify the relations between Federal and State agencies operating in the same field.

Section 7 of the bill outlines the procedure to be used by the Commission in preventing unlawful employment practices. The Commission is directed to endeavor to eliminate such practices by "informal methods of conference, conciliation, and persuasion."

Only in the event of failure of such informal methods may the administrative proceedings leading up to the issuance of a cease-and-desist order be utilized. The bill specifically provides that such proceedings conform to the standards and limitations of the Administrative Procedure Act. Affirmative action which the Commission may take includes reinstatement or hiring of employees, with or without back pay.

The bill, in section 8, provides for judicial review and endorsement in accordance with section 10 of the Administrative Procedure Act. Under this provision orders of the Commission are legally enforceable only after they have received judicial approval.

H. R. 4453 varies from the previous bills in connection with its application to Federal employees in that it takes into consideration Executive Order 9880 and Civil Service Commission regulations regarding fair employment practices within the Federal Establishment.

The bill provides that before seeking relief under its provisions an employee must exhaust the administrative remedies prescribed in the Executive order and regulations. The bill, therefore, does not undertake to supersede the existing fair-employment-practice program established by the Federal Government to eliminate discriminatory employment practices in Federal employment, but supplements it by affording aggrieved employees additional remedies.

Another desirable change found in H. R. 4453 is in section 10 (b), which empowers the President to establish regulations to prevent the committing or continuing of unlawful employment practices by Government contractors.

This provision is made applicable to any contract exceeding \$10,000, whereas former bills made its coverage dependent upon the number of persons employed on such contracts.

This change is advantageous in that it conforms the application of this bill to the coverage provided in the Walsh-Healey Public Contracts Act, thus providing uniform application of minimum wage, overtime, and child-labor standards and fair employment practices to employees on Government contracts.

As I stated before, Massachusetts, New York, Connecticut, and New Jersey have had fair employment statutes for several years. Statutes containing no enforcement provisions have been in effect in Indiana and Wisconsin for about the same length of time. During current sessions of State legislatures, 21 FEPC bills have been introduced, and four States—Washington, Oregon, New Mexico, and Rhode Island—have enacted such bills into laws.

Such legislative activity in this respect is a heartening indication of an awareness of the existence of this problem and of a purpose to take all possible steps to eliminate it.

Discrimination in employment, however, is not a State or local problem alone. It crosses State lines. Wage discrimination against a minority group in a State has a depressing effect, not only in that State but subjects employers in other States, which may have fair employment practice laws, to unfair competition.

Discrimination in employment is a national problem which affects our whole economy and requires action by the Federal Government.

Ever since the termination of the Fair Employment Practice Committee in 1946, President Truman has strongly urged the enactment of permanent fair employment practice legislation.

On December 5, 1946, he established the President's Committee on Civil Rights to study and report on the whole problem of federally secured civil rights.

In his Economic Report, submitted to Congress on January 6, 1947, the President stated that discrimination in employment or wages, against certain classes of workers, including certain racial and religious groups, must be ended.

Again, in his state of the Union message to the second session of the Eightieth Congress on January 7, 1948, the President referred to the denial to certain of our citizens of equal opportunity for jobs and economical advancement and stated that discrimination based on race, color, religion, or national origin is, and I quote the President, "totally contrary to American ideals of democracy."

On February 2, 1948, the President delivered a special message to Congress outlining a 10-point program with respect to civil rights, based upon the report of the President's Committee on Civil Rights.

One of these 10 points was the enactment of a Federal Fair Employment Practice Act prohibiting all forms of discrimination in employment based on race, color, creed, or national origin.

On July 27, 1948, in his address to the special session of the Eightieth Congress, the President again asked enactment of permanent legislation with respect to fair employment practices.

In his state of the Union address to the present Congress on January 5 of this year, the President stated:

The driving force behind our progress is our faith in our democratic institutions. This faith is embodied in the promise of equal rights and equal opportunities which the founders of our Republic proclaimed to their countrymen and to the whole world.

The fulfillment of this promise is among the highest purposes of government. The civil-rights proposals I made to the Eightieth Congress I now repeat to the Eighty-first Congress. They should be enacted in order that the Federal Government may assume the leadership and discharge the obligation clearly placed upon it by the Constitution.

I stand squarely behind these proposals.

That is the end of the quotation from the President's message of January 5 of this year.

Mr. Chairman, I strongly urge that this committee give a favorable report to this fair-employment-practices legislation.

Mr. POWELL. Thank you, Mr. Secretary.

Would you furnish us with the approximate number of people unemployed in our country today?

Mr. TOMX. Yes; there are, according to the unemployment figures compiled by the Bureau of the Census, 3,016,000 unemployed at the present time.

Mr. POWELL. A little over 3,000,000?

Mr. TOMX. Yes, sir.

Mr. POWELL. Is there any break-down as to the minority groups?

Mr. TOMX. No; there is no approximation. That is a study that is made by the Bureau of the Census. They make it in 61 counties of the country, without regard to race, color, or creed.

Mr. POWELL. A statement was made by the Director of the Industrial Relations National League that they have just completed a survey in 53 States and they find the percentage is about 22 percent of the unemployed are Negroes, running, therefore, three or four times on what would be the total population percentage.

They also pointed out that during the wartime FEPC about 750,000 Negro people received jobs in skilled trades. Is that figure about right, would you say?

Mr. TOMX. Mr. Chairman, I would not be in position to answer that question, but I would say that 750,000 would seem to be a minimum. I would think more went into skilled trades.

Mr. BURKE. Skilled trades or unskilled trades?

Mr. TOMX. Yes; skilled trades which formerly they had great difficulty getting into.

Mr. POWELL. Today closes our hearings. We have been here 3 weeks and have heard about 70 witnesses. We have found that the major opposition to this bill has come from those people, most of whom are in the South, who are afraid of the enforcement power.

Yesterday we spent considerable time with one of our colleagues, Congressman Brooks Hays, of Arkansas, and I finally got him to the place where he agreed that he was in favor of FEPC, although without the penalty. He praised the wartime FEPC, but he made four objections.

He said the important one was that of the enforcement power.

I would like you, from your experience as Governor of Massachusetts, to enlarge on that.

Mr. TOMX. Mr. Chairman, I played a great part in the passage of the Fair Employment Act in my State, and I can sincerely state to this committee that had I not been Governor I doubt whether it would have been enacted.

The moment the law was enacted I then proceeded to get the three best people I could find in the Commonwealth. I took them into the Governor's office and I told them, "I want you to approach your job

from the point of view of education first, and second, from the view-point of persuasion and conciliation."

I am proud to say that great avenues of employment have been opened up, particularly to Negroes, and there has not been a single conviction in the courts of the Commonwealth of Massachusetts. That is also true of New York.

I would say that the people of the South would have very little to worry about, because I am confident that, under this bill, the President of the United States will see to it that people who are inclined to carry out this program through the policy of education and persuasion are the type of people who will be appointed to the Commission.

At this time I would like to cite one example which I think is very convincing in this picture: In 1938, on the southeastern railroads, practically all freight handlers were Negroes. That spring, the wages of those men ranged from about 12 cents an hour to about 30 cents an hour. They were not accepted into the union. Since then, however, they have been accepted into the union and have benefited under the process of collective bargaining. The Fair Labor Standards Act which was enacted late in 1938 brought their wages up to the minimum of 25 cents an hour.

On the 1st of September of this year the minimum wage for freight handlers in the southeastern railroads will be \$1.16 an hour.

There was real discrimination in this situation against white men, too, which bears out what I contend here, because white men did not work as freight handlers in 1938 because of the low wage. White men and Negroes are working together at the present time. Through collective bargaining which brought about fair employment practices, today both whites and Negroes are working together, and their wages will be \$1.16 an hour the 1st of September of this year.

MR. POWELL. Another thing, when you were Governor of Massachusetts, you found the same argument advanced in the North and in Massachusetts against FEPC that we hear from the South: unconstitutionality.

MR. TOBIN. Yes; primarily it was argued on grounds of unconstitutionality, and they made the most dire predictions as to the great disasters that would come.

All of these predictions have been found to be false. The result is there has been a great elevation of the living standards of the people previously discriminated against. They are now, as citizens, able to make a good contribution to our country. In the past they were not able to make much of a contribution.

They were a great drag on the community from the point of view of welfare when, through no fault of their own, they were unable to obtain private employment.

MR. POWELL. Just as Stephen Jackson, who headed the Juvenile Delinquency Committee in New York and is now with the Federal Security Agency, testified yesterday that there was a direct relation between crime and job opportunity. He quoted from his experience in Harlem. He is a Catholic and he quoted from his experience in the Southwest.

MR. TOBIN. That is the natural, logical conclusion. People in economic distress—in poverty—are inclined to obtain the things they need by illegal methods if they cannot obtain them by legal methods.

Mr. POWELL. What do you think of an FEPC bill passed by the Congress without enforcement powers?

Mr. TOBIN. I think it would be very ineffective. It would be helpful to some extent, but not nearly to the degree that it would be by having effectual enforcement. I would hope that whatever commission is appointed—and I hope the law is going to be enacted—would use the same kind of discretion that has been used in New York, Massachusetts, Connecticut, and New Jersey. If they do that, through a process of education by persuasion and conciliation, they will open up avenues of employment that are now denied to people because of discriminations that are commonly practiced. I hope that they will likewise find it unnecessary to use the enforcement power which is, nevertheless, essential to the successful operation of the law.

Mr. POWELL. I said yesterday to Representative Hays of Arkansas I would like to see the chairman of the commission a southerner, someone like Homer Rainey or Senator Graham.

Mr. TOBIN. I am not the kind of American who thinks a change can be made absolutely overnight. It has to be gradual, and it is going to be better for everyone to approach this in a gradual way. The key to the situation will be the type of people who will be appointed to this commission. I, naturally, have great confidence in the President of the United States and I know the type of people that he will appoint to this Commission will use the same methods that have been used in New York, in the Commonwealth of Massachusetts, and in the States of Connecticut and New Jersey.

Mr. POWELL. Mr. Burke?

Mr. BURKE. I think it is interesting and significant to know that every witness who has appeared here who has had anything whatsoever to do with the administration and handling of FEPC in those States in which the laws have been adopted, and who has had opportunities for close observance of the workings of those laws, supported the testimony that you have given that enforcement is an absolute necessity.

Mr. TOBIN. The power to enforce?

Mr. BURKE. The power to enforce; yes, sir.

Mr. TOBIN. The power should be there, but should be used sparingly. Great patience should be used and all the possible powers of persuasion and education should be used before a cease-and-desist order is issued.

Mr. BURKE. Many of us have been reconciled to the problem in private industry for many years, and we have come to the conclusion—I won't say the failure of the present method, not backed up by enforcement, but rather that they go as far as they can go and they just don't cover the problem at all.

Mr. TOBIN. Well, tremendous strides have been made all over the United States in dealing with this problem in recent years, but the enactment of this law will bring us nearer to the solution of it, nearer to the day when there truly will be economic freedom in the United States.

Mr. BURKE. That is all.

Mr. POWELL. That is all. Thank you so much, Mr. Tobin.

Mr. TOBIN. Thank you.

Mr. POWELL. I would like to include in the record a statement from Mr. Thomas Kennedy, vice president of the United Mine Workers of

America, pointing out that the United Mine Workers have consistently practiced the FEPC philosophy. At one time wage rates were different between Negro and white workers. Today, all discrimination and segregation in the united mine workers is wiped out, and this letter can be issued in support of FEPC legislation.

I also have a communication from the Honorable Henry M. Jackson, a Member of Congress from the Second District of Washington, in support of this legislation.

I also have a communication from Mr. Farrell Dobbs, national secretary of the Socialist Workers Party in support of this legislation, and without objection these will be printed in the record.

We have a statement before us from one of our most influential industrialists, Mr. William L. Batt, president of SKF Industries, which was released this morning, representing the opinions of such people as Allen W. Dulles, Paul G. Hoffman, Eric Johnston, Henry R. Luce, Dwight R. G. Palmer, Martin Quigley, Nelson A. Rockefeller, Anna M. Rosenberg, Beardsley Ruml, Spyros P. Skouras, Paul C. Smith, Herbert Bayard Swope, Charles H. Tuttle, and Oren Root, Jr., which I shall also place in the record.

(The documents referred to are as follows:)

UNITED MINE WORKERS OF AMERICA,
Washington, D. C., May 24, 1949.

MR. JOSEPH S. JAROSZ,
Professional Staff, Committee on Education and Labor,
House Office Building, Washington 25, D. C.

DEAR MR. JAROSZ: Your letter of May 20 to President Lewis, in his absence, has been referred to this office for reply.

The consistent policy and practice of the United Mine Workers of America, both with respect to membership in our union and with regard to work in the coal-mining industry, recognizes the right of any person, regardless of creed, color and nationality, to secure employment in the industry and membership in our organization. All persons are eligible to hold office and to represent the United Mine Workers of America when elected to do so. Among our membership are: Caucasians, Negroes, and Mongolians. Our membership is composed of practically all nationalities throughout the world.

The wage rates in the coal-mining industry are on the job and the type of work performed and are not on the person or individual. At one time there were wage differentials between the North and South. Differentials also existed in the South between white and colored labor working in the industry, but these questions have all been eliminated and practically forgotten. In following this policy, the United Mine Workers of America has experienced considerable difficulties, but these have been overcome and matters are now working out on a very satisfactory basis.

You are at liberty to introduce this communication in the records pertaining to hearings now being conducted in connection with FEPC legislation.

Very truly yours,

THOMAS KENNEDY,
Vice President.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., May 25, 1949.

CONGRESSMAN ADAM C. POWELL,
Chairman, Subcommittee on Fair Employment Practices,
House Office Building, Washington, D. C.

DEAR MR. POWELL: I am enclosing a letter I wrote over a year ago to the chairman of the Washington State Council for a National FEPC, expressing my views on the legislation to combat discrimination in employment introduced in the Eightieth Congress. My views have not changed since that time. I support your vigorous attempts for the enactment of similar legislation in the Eighty-

first Congress, and request that you have the enclosed letter inserted in the record of the current hearings being conducted by your subcommittee.

As you undoubtedly know, my State of Washington recently enacted legislation to combat discrimination in employment. Since there is a provision that it cannot go into effect until 90 days after its passage, the law will not begin to operate until June. However, it is modeled after the statute now in effect in New York State, and if in its initial operation it is as successful in promoting the ideals of democracy as the New York law has been to date, I shall be most satisfied. I have every confidence that it will be successful, because the people of my State are fair-minded people, anxious to treat every man as a human being.

Many businessmen claim to support the principles of an FEPC, but maintain that their employees would not work in association with certain minority groups. I understand that the testimony before your subcommittee has shown that, under the operation of the New York statute, there has not been one single case of an employee quitting because of a change in employment policy. This is a fact which I believe deserves widespread attention.

There are those who maintain that an FEPC would do more harm than good to the cause of minority groups, by increasing the resistance to equal treatment of those groups. I do not hold that view. The case of the New York Telephone Co., which is elevating a Negro to a supervisor's position—the first woman to hold that position—is an indication that an FEPC law serves to stimulate and accelerate the healthy evolution of our minority problems.

You have my full support in your activities directed toward the passage of national FEPC legislation.

Sincerely yours,

HENRY M. JACKSON,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., March 12, 1948.

Mrs. A. FLETCHER BOOTH,

Chairman, Washington State Council for a National FEPC,
Seattle, Wash.

DEAR MRS. BOOTH: I feel very strongly that the Eightieth Congress should enact S. 984 and the companion bill, H. R. 2824, the National Act Against Discrimination in Employment. It is my opinion that this legislation is a sound and judicious approach to eliminate an evil which is both an obstacle to democracy and a problem requiring careful and delicate treatment.

The purpose of this proposed legislation is to eliminate discrimination in employment because of race, religion, color, national origin, or ancestry. Such discrimination is fairly common in many areas of the country, in the North as well as in the South. It affects not only the Negro but also other Americans of Latin-American or oriental descent; in some areas, it weighs against persons of the Jewish, Catholic, and Protestant religions. Wherever this discrimination occurs, it creates resentment and unrest. Because it is a denial of the ideals of Americanism, it undermines and weakens loyalty to our form of government. Furthermore, it puts artificial barriers in the way of using in full the abilities of all our people. In a full-employment economy such as we have today, we cannot afford to waste the skills and energies of any groups of citizens.

This proposed legislation is the result of long study and a great deal of experience with the difficult problem of eliminating this type of discrimination. Its provisions are judicious and fair. Its drafters realize that this is not a problem which can be handled merely by exercising the power of the Federal Government. They have realized that there is a great job of education to be done; and these bills lay great emphasis on voluntary adjustment, conciliation and mediation, and the settlement of disputes without recourse to formal proceedings. The bills do contain enforcement provisions. These are necessary in order to protect those citizens who sincerely desire to comply with our democratic ideals from the unfair competition of a few. However, these enforcement provisions establish fair hearings, with safeguards against hasty action, and recourse to the courts only in cases of stubborn refusal to do away with unfair practices.

The legislation avoids the defects and dangers which were present in our earlier attempts during the war to establish fair-employment practices. It is not a rabble-rousing measure; it does not set color against color, or class against class; it is an attempt to bring all citizens together in allegiance to our common ideals. It has the backing of many employers and business leaders, as well as of unions and Government officials all over the country.

We cannot abolish discrimination in employment overnight. It will be a long and difficult task, but this legislation is a most important first step. It makes provision for the creation of local, State, or regional advisory councils to foster an understanding of the law and its objectives through community effort. Such groups as the Washington State Council for a Permanent FEPC have a tremendously important role to play, not only in urging passage of the legislation but in making it effective after it is passed.

Sincerely yours,

HENRY M. JACKSON, M. C.

SOCIALIST WORKERS PARTY,
New York 3, N. Y., May 24, 1949.

SUBCOMMITTEE ON FEPC LEGISLATION,

House of Representatives Committee on Labor and Education,
Washington, D. C.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: As national chairman of the Socialist Workers Party, I wish to express our support for effective fair-employment-practices legislation.

Resistance to such FEPC legislation is not confined to its open enemies—the Dixiecrats, southern Democrats, and other reactionary elements in the two major parties. These people take their stand in the open and oppose any interference, governmental or otherwise, with the sacred institution of job discrimination that props up the capitalist-nurtured Jim Crow system itself. Such elements are easy to spot for the enemies they are to all civil liberties and they can be overcome.

There are, however, other enemies of effective FEPC legislation. These people see the way the wind is blowing and know that outright resistance to the demand of the mass of the people is neither feasible nor expedient. Such individuals are more subtle and cunning and consequently even more dangerous than outright reactionaries. Their conduct follows two main patterns.

1. They acknowledge the evil of job discrimination, deplore it noisily, and demand steps to curb it. FEPC is needed, they say, and they even take the initiative in sponsoring such measures in local, State, and Federal legislative bodies. But, they insist, the true answer to ending discrimination lies not in "compulsion," but in "education." As they see it, the function of the FEPC is to investigate, arbitrate, and mediate and try to convince the miscreant Jim Crows of the errors of their ways, but never, never under any circumstances, to "force" anyone to cease and desist from discrimination.

The effect of legislation promoted by such people is to divert the fight against job discrimination into channels that are completely ineffectual—harmless for the Jim Crow elements and demoralizing for the masses. This kind of legislation is already on the books in some States. And some among the Dixiecrats have expressed a readiness to accept such compromises whenever they find themselves unable to stymie FEPC legislation in any other way.

This attempt to distinguish between education and compulsion is false to the core and must be exposed. Not a lack of education motivates Jim Crow discrimination, but rather the economic and political advantages that accrue to the ruling class by keeping the Negro people and the white workers separate and divided. The Jim Crow system is maintained by compulsion (as every Negro in the South knows) and it will be ended only by the use of stronger compulsion. Laws that do not compel the Jim Crow elements to desist from their violations of democratic rights are just so much window dressing. And what is more, compulsion, too, is a form of education. Strict enforcement of adequate antidiscrimination legislation will educate the Jim Crow elements a thousand times faster and more thoroughly than the best "educational" tracts, or pleas or advice.

2. But, when they are smoked out on this position the liberal opponents of effective FEPC legislation fall back on their last and most strongly fortified line. Yes, they admit, an FEPC with teeth is necessary and they are ready to support and adopt it, as has been done in New York State, for example. And they imme-

diately proceed to render such a law utterly worthless, despite its teeth. This they accomplish by the type of personnel they place at the head of the FEPC and by the compromising policies they pursue in the operation of the FEPC.

Your committee has heard much praise for the New York FEPC, which bears the name of the State Commission Against Discrimination. You have also received many recommendations that the proposed national FEPC should be modeled after the SCAD. To do so, however, would be in effect to betray the fight against discrimination. Because the truth is that the SCAD has done virtually nothing beneficial in this field, despite ample authority and funds at its disposal. In fact, the SCAD operations have succeeded to date only in discrediting the very idea of FEPC action.

Let me illustrate by calling to your attention a recent protest by the National Association for the Advancement of Colored People against the SCAD's inaction and delay in the enforcement of the law. This protest was lodged because of SCAD's 3-year delay in settling the case of a Negro seaman who was refused employment as a radio operator on the S. S. *Lehigh Victory* on April 25, 1946, because the officers of the ship would not sail with a Negro. A complaint filed with SCAD on April 30, 1946, and amended on July 7, 1947, has not yet been satisfactorily settled despite the fact that SCAD found probable cause for the complaint almost a year ago. (NAACP press release, May 5, 1948.)

From the beginning the SCAD had legislative authority to act on this case and to take it before the courts at the very least. It failed to do so because it is still trying—after 3 long years—to educate the guilty parties into mending their evil ways. At all events, the SCAD has never taken a single case into court. And not because it is so overworked, either. (The SCAD has the powers to initiate cases but refuses to do so, waiting instead for someone else to lodge a complaint.) But after a few experiences of this sort, how many workers are going to bother or waste time lodging complaints? Instead many of them are bound to conclude in discouragement that the whole FEPC proposition is a fizzle and not worth fighting for.

The Socialist Workers Party has supported the struggle for FEPC legislation from the beginning and has given and will continue to give critical support to legislation along this line. For the above-stated reasons, however, and in the light of experience, we stress our repeated proposal to the effect that not only shall Congress pass an FEPC bill, and not only shall such a law have the necessary teeth, but also that specific provisions shall be included in such legislation to prevent circumvention of its aims through practices such as have been condoned in New York State.

Concretely, what I and my party propose is that the administration of the FEPC not be left in the hands of people who are either chosen for patronage consideration or inclined to stress education to the detriment of legal enforcement. Administration of the FEPC must be controlled by the masses themselves through representatives responsible to their needs and wishes. These must be chosen by the labor movement and by Negro, Jewish, and other minority organizations. There is no other way for legislation to achieve favorable results in the struggle against discrimination.

In conclusion, allow me to point out that the FEPC movement did not arise out of the activities of capitalist politicians, who pose as humanitarian protectors of minority rights only in order to protect the capitalist roots of racial and religious discrimination. They seek to misuse the FEPC issue for their own partisan ends.

Actually the FEPC movement stems from the revolutionary changes in the thinking of the masses that are occurring because of the social ferment. During the thirties, these new mass moods received their clearest expression thus far in the upsurge of the CIO that has brought large numbers of white and Negro workers together in a common organization for the first time. The fight for the FEPC itself got its initial impetus in the course of the brief life of the Negro march on Washington movement.

If the Eighty-first Congress through its major capitalist parties fails to pass effective legislation along the lines I have indicated, then the mass of white and Negro people will be heard from again. And, you may be sure, they will persist until not alone job discrimination but all of its defenders are swept out of their way.

Sincerely yours,

FARRELL DOBBS, *National Secretary.*

STATEMENT BY WILLIAM L. BATT, PRESIDENT OF SKF INDUSTRIES, ON BEHALF OF THE NATIONAL CITIZENS' COUNCIL ON CIVIL RIGHTS

GENTLEMEN: I appreciate the opportunity to make known to the committee my views in favor of the Federal Fair Employment Practice Act, H. R. 4453. Together with many other American businessmen, I believe that discrimination in employment not only compromises the fundamental American principle of equal opportunity, but impedes the development of business and industry as well.

Early in 1948, when this question was being considered by the United States Senate, I joined with several other businessmen in sending a message to Senator Arthur H. Vandenberg, President pro tempore of the Senate, urging adoption of a fair employment practice law. Our message, in part, said:

"The great majority of employers in the United States, together with their fellow Americans, believe in the principle of nondiscrimination in employment. They know that such discrimination is uneconomic, in that it results in an unsound use of manpower and retards the development of purchasing power. They know it is undemocratic and un-American, being contrary to the principles upon which our Government was founded and upon which it endures. They know, finally, that it weakens the position of the United States in the eyes of the world and in the war of ideas between freedom and totalitarianism."

In addition to myself, those who signed this message were:

Allen W. Dulles, of Sullivan & Cromwell
 Paul G. Hoffman, president of the Studebaker Corp.
 Eric Johnson, president of the Motion Pictures Association of America
 Henry H. Luce, editor of Time, Life and Fortune
 Dwight H. G. Palmer, president of the General Cable Corp.
 Martin Quigley, president of the Quigley Publishing Corp.
 Nelson A. Rockefeller
 Anna M. Rosenberg
 Beardsley Ruml, chairman of the board of R. H. Macy & Co.
 Spyros P. Skouras, chairman of the Twentieth Century Fox Film Corp.
 Paul C. Smith, general manager, San Francisco Chronicle
 Herbert Bayard Swaps
 Charles H. Tuttle, of Reed, Shott & Morgan
 Oren Root, Jr.

Our system of free enterprise, with the rewards it offers for initiative and talent, has spurred men on to great accomplishments. But freedom of endeavor cannot be reserved as the right of a chosen few. All Americans must be encouraged to contribute the best efforts of their hands and minds, and to rise as high as their individual abilities justify. When opportunity and incentive are denied to any group in our population, we are diminishing the potential wealth of the Nation. Think, for a moment, of George Washington Carver, whose contribution to the science of soil chemistry did so much to revitalize the economy of the entire South. Fortunately for all of us Dr. Carver was able to overcome many of the obstacles faced by Negroes in our economic system. But who can measure the loss suffered by this country and the entire world when the latent abilities of other members of his race are not given full opportunity to develop?

American industry is today responding to the greatest challenge in modern times. It faces a four-fold task: to hasten the rebuilding of the war-shattered economies of Europe; to satisfy the military requirements of our national defense; to help make fruitful the great undeveloped areas of the world; and to meet the needs of our own ever rising standard of living.

Diminishing supplies of natural resources, and the limited purchasing power of both domestic and foreign markets, require that production and distribution be accomplished with the utmost of efficiency. Waste of any sort cannot be tolerated. Our human resources must be utilized to their fullest extent. Every member of the working force must be permitted to attain his optimum value. Every employer must be free to hire the very best man for every job without limitations as to race, religion, or national origin. Today, any factor that retards business development must be eliminated including unfair employment practices.

I am familiar with the arguments advanced in opposition to fair employment laws. I submit that every one of these objections is invalidated by the facts.

It has been said that the average laboring man will not serve side by side with members of certain racial groups. That charge is an insult to the sense

of fair play of the American worker. Furthermore, it is refuted by experience. The records of the wartime Federal Fair Employment Practice Committee and of the commissions which have been administering similar laws in the States of New York, New Jersey, Massachusetts, and Connecticut, prove the speciousness of this argument. Most firms operating under these laws have found that over-all efficiency rose when the best qualified workers were on the job. My own firm, SKF Industries, although not guided by any State law, has observed a non-discriminatory employment policy for many years with excellent results.

It has been argued that customers in retail establishments will object to being served by Negro employees. Here again, experience proves the contrary. Department stores employing colored clerks have found that their sales records compare favorably with those of white personnel. On this point I refer you to the testimony of representatives of the New York, New Jersey, and Massachusetts commissions, given before a subcommittee of the Senate Committee on Labor and Public Welfare of the Eightieth Congress. These gentlemen reported that there was not one instance of an employer filing a complaint that he had lost either customers or revenue because of compliance with the fair employment practice law.

I have heard it mentioned that such a law dictates to the employer as to whom he must hire. But H. R. 4453 does nothing of the kind. It would merely require that a person who is acceptable in every other respect must not be rejected because of religion, color, or national ancestry.

There is still another reason why passage of this law is important to business. When capable workers are denied opportunities to increase their earning capacity, the purchasing power of their families must remain static or contract. If discrimination goes unchecked, affecting numerous groups within the population, a sizable market is lost for the products of industry. Moreover, a repressed standard of living invariably gives rise to social evils—slums, ill health, delinquency, and intergroup tension. In neighborhoods thus afflicted, the need for welfare services increases, property values fall, taxes rise, and new business ventures are discouraged.

I have confined my remarks thus far to certain practical considerations, which must occur to any businessman. But the Fair Employment Practice Act rests on moral grounds which are even more compelling.

I am a member of the National Citizens' Council on Civil Rights, an organization composed of prominent American citizens representing different sections of this country and including businessmen, educators, clergymen, and labor leaders. It is the view of this group that the United States, which led the way in the formulation of the United Nations Charter and the universal declaration of human rights, is now called upon to narrow the gap between protestation and practice. If we fail to guarantee full equality of opportunity to all our citizens, we shall in effect be saying to the world, "Do as we say, not as we do." This would indeed be a blow to the cause of democracy. As the outstanding exponent of human rights in the council of nations, we must raise a standard to which the rest of the world can rally.

We also have an obligation to conform with the basic tenets on which this Nation was founded. A Federal Fair Employment Practice Act will be a further means of implementing the Declaration of Independence and the Constitution. Such implementation has been too long delayed. Congress now has the opportunity to fulfill our Nation's historic promise by bringing employment practices into line with our fundamental beliefs. I urge that this be done by passage of H. R. 4453.

Mr. POWELL. Our next witness is Mr. James Lipsig, representing the Jewish Labor Committee.

TESTIMONY OF JAMES LIPSIG, REPRESENTING THE JEWISH LABOR COMMITTEE

Mr. LARSEN. My name is James Lipsig. I appear on behalf of the Jewish Labor Committee. I also represent the ladies garment workers.

The Jewish Labor Committee is a national organization of over 500,000 Jewish working men and women.

The committee has been officially recognized by both the AFL and the CIO, and its affiliated organizations comprise every AFL and CIO

union with a substantial Jewish membership. The committee carries on an active and extensive program of education for tolerance in the field of race relations, and an active and extensive program against discrimination, whether because of race, religion, color or national origin.

The Jewish Labor Committee is therefore wholeheartedly in support of the purposes and principles underlying H. R. 4453. We have submitted to congressional committees in other years elaborate statements presenting the imperative reasons for the enactment of such legislation. From our own experience in the labor movement and in the general field of community relations, we know how valid is the data demonstrating the continuing existence of discrimination, which was submitted to you last week by Mr. Irving Kane, chairman of the National Community Relations Advisory Council, with which the Jewish Labor Committee is affiliated. We know that prejudices will not be eliminated wholly by legislation, but we also know that a law such as is now proposed, is in itself a powerful educating influence.

If there is one subject on which a plethora of information has been submitted to congressional bodies, it is the subject of fair employment practices legislation. The testimony submitted in earlier years, and the testimony submitted this year, establish an irresistible body of unassailable facts, justifying, indeed compelling, this legislation. From this evidence it can be affirmed almost as axiomatic that discrimination in employment because of race, religion, color, or national origin, is immoral, irreligious, uneconomic, and politically unwise.

It would here serve no purpose to burden the record with additional similar data. Since labor is our particular field, with the indulgence of the subcommittee, our statement will confine itself to two reasons of particular significance to labor, which have led the labor movement in this country to support fair employment practices legislation. We are particularly concerned with the role which discrimination and prejudice may play in the shops, the factories, and the mines of our country, and with the role which it may play in the battle now in progress for the allegiance of the peoples of the world.

Labor unions of this country have experienced for many years the divisive aspects of race discrimination, utilized by employers and their henchmen. No weapon in the arsenal of the antiunion employer has been so effective as the tactic of "divide and conquer." To cite but one recent example, it is common knowledge that southern employers have on many occasions, used or threatened to use cheap Negro labor as a weapon to beat down the demands of white employees, whether or not organized into unions. On the other hand, when unions sought to organize, these same employers have not hesitated to counterattack with inflammatory statements to their employees that unionization meant that they would have to work alongside of Negro workers. The device is not peculiar to the South. Northern employers have used it, and employers of every race, religion, and color. Negroes are not alone in having suffered at the hands of this divisive technique. Jews have been its victims, Catholics, Mexicans, Chinese. There is no race or group which is immune. If employers may set off one race, or one religion, or one color group, against another, merely because there is a difference, then no person and no group may safely be considered immune. The examples might be multiplied, but they are fresh in our minds and need not be recalled.

Labor knows and fears with justification the policy of discrimination in employment. Perhaps more than any other segment of our population, labor has learned through bitter struggles, to appreciate the value of conditions which promote and nourish the dignity of the individual. For without a common feeling of individual worth and dignity, there can be no solidarity, no constructive approach, and no progress. As labor also knows, the one major cause of group hatreds is economic insecurity and frustration. That is why the labor movement combines with its efforts to improve the working conditions of its members, parallel efforts to make workers understand the evils of intolerance. That is why, we are happy to report, so much progress has been made in recent years. The few intransigent groups, who are not entitled to the name of "union," must soon acknowledge error, we are convinced.

Perhaps today more than ever, is it essential that our national record be cleansed of such impurities. We of the United States are engaged in a historic struggle for the sympathies and the allegiances of the peoples of the world. We hold out as the hope of the world the system of democracy, as opposed to the system of totalitarianism. We say and write much about the worth of the individual. We postulate the individual as the basis of all government. We stress the role of government as that of promoting the welfare of the individual. But the hundreds of millions of peoples of color throughout the Far East and Asia and Africa, with whose welfare we now find our own inextricably entwined, may be pardoned if they listen with some degree of skepticism.

To quote Emerson, "The peoples of the world cannot hear what we say because what we do keeps dinning in their ears." To put it more bluntly, we cannot appear before the world as proponents of idealism, truth, and fair play, if our hands are dirtied with blood from a lynching, or if our consciences are visibly oppressed by a sense of the evil of the discrimination, which is still rampant among us. If we believe in democracy, we cannot permit discrimination, for democracy can only mean that a man is judged solely by his own worth, and not by the irrelevancies of race, religion, color, or origin. How then can opponents of this legislation, who undoubtedly denounce communism and totalitarianism in fervent phrases, ignore this dynamic fact? Do they think we can conceal from the world a fault which shouts from the housetops?

This aspect of the problem is now of compelling importance, because of the efforts now under way by the AFL and CIO, together with the labor movements of other democratic countries, to establish a world-wide federation of trade-unions dedicated to the democratic way of life. It took a bitter and protracted struggle to bring about the dissolution of the Communist-dominated World Federation of Trade Unions. That struggle was hampered by our own imperfections. Of these imperfections few were of more value to the Communist propaganda machine than our shameful record of discrimination and prejudice. We have not yet completely destroyed the hold of communism on world labor. We shall not succeed in that objective unless we do more than we have done up to now. It has not served us sufficiently, and will not, to say that other countries are worse. Whether we like it or not, the United States today is the chief pro-

tagonist of a culture which boasts that it is predicated upon the worth of the individual. We must either live up to that boast or abandon it. No one will gainsay the fact that if we abandon it, we will suffer a perhaps fatal blow in the struggle for the hearts of mankind. We are bidding today for the good will of the world. It is not too great a sacrifice to make, that we live up to our own professions.

For these reasons, along with many others, the Jewish Labor Committee has urged that the Congress of the United States adopt in full the program embodied in the report of the President's Committee on Civil Rights. It is our feeling that, of all the measures contained in that program, none is so vital to both our domestic and our international needs and aspirations as fair-employment-practices legislation.

We do not find this bill, H. R. 4453, a perfect measure; in fact, in several aspects we judge it not strong enough. For instance, we would prefer that it apply to every covered employer who has in his employ one or more individuals. To extend the coverage of the bill to employers of one or more persons would bring it into conformity with the provisions of our national labor legislation, and with equal justification. We cannot agree that small businesses and employers are in any greater measure affected by such an extended coverage than are affected by being included within the provisions of the Taft-Hartley Act. Nor do we agree with the exclusion in section 3, subdivision (b), of charitable, fraternal, social, or educational groups. There is perhaps some point in exempting strictly religious or sectarian organizations. But it is our feeling that all other employers should be covered. We have not found that the enumerated nonprofit organizations are any the less free from discriminatory practices.

However, one provision of section 5, subdivision (a) (2) seems to us somewhat confusing. That is the provision which forbids an employer to utilize in the hiring and recruitment of workers any "labor organization" which engages in forbidden types of discrimination. We say this not because of any sympathy or support for any such labor organization. Fortunately, great progress has been made in educating for tolerance in the labor movement, and there are few unions today which are guilty in this respect. But this provision might place an employer in a difficult position through no fault of his own. An employer may be compelled by economic pressures or through the procedures of law to organize and enter into a collective-bargaining agreement with a labor organization which represents his employees. Under present policies of the National Labor Relations Board, he will not be able to evade that obligation by any claim that the union discriminates. This bill would forbid such an employer to do what he would be required by another statute to do unless the National Labor Relations Board should then modify its rulings to make them consistent with this new legislation.

Our final observation arises out of the fact that section 7, subdivision (b), limits the right of filing charge of discriminatory practices to a "person claiming to be aggrieved" or a member of the Fair Employment practices Commission. We know that in numerous instances the injured individuals lack either the courage or the knowledge required to engage upon this reparatory procedure. Nor can this subcommittee say that the feelings of reprisals entertained by a worker standing alone are without foundation. Perhaps even more important is

the fact that an individual worker is not competent to amass and analyze evidence of large-scale forbidden practices. It is in this respect that many of the most flagrant instances of discrimination can only be uncovered by civic organizations armed with technical skill and equipment to make such investigations. It is because this has become self-evident that the New York State Commission Against Discrimination has been persuaded to allow interested organizations to file complaints in certain cases. There is no reason why that should not be so, since what we are concerned with are violations of national policy, not the exclusive right to reparations by an individual.

The Jewish Labor Committee feels that the changes we have indicated should be made, but whether they are adopted or not, it is our feeling that the proposed legislation is so constructed in approach that it should and must be adopted in the immediate future by the Eighty-first Congress.

Mr. POWELL. Thank you, Mr. Lipsig. You may rest assured that any criticism made of the bill and other suggestions will be entertained by the committee as soon as it meets in executive session.

We have said that to every individual who has come before us, both proponents and opponents of the bill, and we intend to read this bill as long as the subcommittee wants to read it, section by section, jot by jot, and tittle by tittle. We don't want anyone to think this bill was rushed through the subcommittee.

Mr. LIPSIG. I don't think anyone could say that in view of the hearings.

Mr. POWELL. When the subcommittee goes into executive session we want every member to have every opportunity to make any suggestions that they deem proper and I assure you that all suggestions made by witnesses will be compiled by the clerk of the committee, so that the chairman may be guided accordingly.

Mr. BURKE, do you have any questions?

Mr. BURKE. I expect it has been covered.

Mr. POWELL. Thank you.

We will now hear from Congressman Vito Marcantonio.

TESTIMONY OF HON. VITO MARCANTONIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. MARCANTONIO. I am appearing here on behalf of the Honorable Henry A. Wallace, the Progressive Party, and myself, as a Representative of the Eighteenth Congressional District of New York.

At this time, with the committee's permission, I would like to read the statement of Mr. Wallace.

(The statement is as follows:)

STATEMENT OF HENRY A. WALLACE

It is not a small matter to 15,000,000 Americans that 4 years after the defeat of German superracism, a fair employment practices bill is still in the hearing stages in the United States Congress.

The Progressive Party does not believe that the right of all persons to equality of opportunity is debatable.

We do not believe that the American people are sorely divided on this issue. We believe that the overwhelming number of our people would support today—as they did during the war—any measure confirming the American principle of equality of opportunity for all.

Only a handful of men profit by inequality, and only this handful of men perpetuate Jim Crow.

For these people Jim Crow is the great and profitable divisive, disruptive instrument for the dimmity of America.

For these people Jim Crow is the economic scarecrow by which they frighten white workmen from the field of joint action with their Negro brothers on behalf of a higher standard of living.

These people have erected a tower of Babel in the form of deliberately fostered prejudices against 15,000,000 Americans in the hope that no common tongue will arise to challenge their enormous and ill-used power.

These people are the capitalists of entrenched wealth, of monopoly empires, of vast enterprises fattened on the labor of all labor, Negro and white, willing to doom millions of Americans to lifelong unemployment, to the most menial occupations, to early deaths, to the most wretched privation and want.

It was not always like this. The reconstruction parliaments elected after the Civil War wrote guarantees of equality of employment into the lawbooks of the Southern States. During the lifetime of these laws the economy of the South began to move forward. But the emergence of the post-Civil War Bourbon, taking power by terrorist and violent means, spelled the end of such laws, and condemned the South to an economy which has left it America's economic problem No. 1.

Again, under Franklin Roosevelt, some of the Jim Crow rules were gradually lifted, and then tossed into the ashcan of history during the war against fascism, with his sponsorship of the FEPC.

After his death the powers he had fought off for 13 long years dug into the ashcan again and restored Jim Crow as the architect of American employment practices.

A coalition of backward-looking, backward-marching members of the Democratic and Republican parties did this disservice to America.

For four long, wary years these race-partisan Democrats and Republicans have vied with each other in making solemn pledges to restore an American pattern of employment.

And in every session of Congress during those years they have competed with one another in parliamentary tricks, in misleading maneuvers in a joint effort to block FEPC.

In 1946 the Democrats controlled the Congress, and hence the Republicans promised to enact FEPC.

After they took control of Congress they betrayed those promises.

In 1949 the Democrats were restored to congressional power, electing a Democratic President sworn to a civil-rights platform of which FEPC was an integral part.

In March of this year an equal number of Republicans and Democrats in the United States Senate joined hands to perpetuate the privilege of filibustering against FEPC.

These Senators would not be so bold in flouting the human rights of 15,000,000 Americans if the President of the United States was not a party to their game.

By his own failure to erase Jim Crow from the Army in fact—though not in words—he has indicated to them where he stands. By his failure to erase Jim Crow from the Panama Canal Zone he perpetuates economic injustice to thousands.

By his failure to protect the civil rights of postal employees and other civil-service workers who are being persecuted for their belief in equality, he has given the green light to congressional and senatorial enemies of FEPC.

By his failure to direct his Department of Justice to protect the civil rights of Mrs. Rosa Ingram and her sons, of the framed and beaten Trenton 6, of the Nixons and Mallards, he has given the nod to race-mixers and Jim Crow klans.

And worst of all, the President abdicated his party leadership in the fight on the filibuster when the leaders of his foreign policy threatened a sit down on the North Atlantic Pact.

Executive, legislative, and judicial bodies on every level have taken their cue from the President and Congress, and have in their own way duplicated the policy of enforcing Jim Crow in every area in which the people have not yet awakened to the fact that discrimination is the enemy of all Americans.

There has been a great deal in the press and radio lately of where the Negro people stand in their loyalty to the United States. Such questions can only arise in an atmosphere of Jim Crow hysteria. The Negro soldiers and sailors who fought so courageously in the war against fascism need not defend their loyalty.

On the contrary, I believe that Senators Connally and Vandenbergh, the bipartisan race-partisan leaders of our foreign policy who led the fight to retain the Ambassador against FEPC stand in need of defense. It is they who must answer questions which loom large in the minds of all Americans: Can bigots and Jim Crow advocates be entrusted to author a democratic and peaceful foreign policy?

Can our delegation to the United Nations, which voted against a United Nations resolution forbidding race-discrimination be entrusted to enforce democratic and peaceful sentiments in that world body?

Can an administration dedicated to Jim Crow at home be entrusted to support democracy abroad?

It is not the Negro people, it is not FEPC which stands before the bar of public opinion to answer for its compatibility with Americanism.

The opponents of FEPC and civil rights stand indicted for their strange association with Jim Crow at home, and with Franco, Chiang Kai-shek, the revived German Nazis, the Greek Royalists, the Dutch Imperialists, the British Tories, and other dictators abroad.

And now a strange definition of loyalty is being framed by the race baiters. A considerable number of postal employees, many of them Negroes, have been cited for "disloyalty." In Cleveland alone, for example, four-fifths of the reported "loyalty" cases involve Negro employees, most of them members of a trade union of postal employees whose only crime has been fighting actively against discrimination in employment.

This is nothing new. Always the men who don't like a change fight that change by calling it treason. While I was on my tour of the country against the North Atlantic Pact, I discovered that the little men who make up these loyalty inquiries have gone so far in some States, as in California, as to bar the way to employment of a prominent Catholic lawyer solely because he was identified with the fight for FEPC in his State.

It seems clear to me that this bill needs amending in one other respect—it should penalize agencies which discriminate against men and women for their political beliefs. Otherwise the dangerously loose concept of "loyalty," administered by race baiters, will be used just as I have shown above, to accomplish the same purposes as race barriers now accomplish.

Now, FEPC is not simply a matter of justice for 15,000,000 Negro Americans. It is a matter of life and death for them. It is a matter of the dollars and cents that mean the difference between food and hunger, between homes and hovels.

The Census Bureau has revealed that the average income of white families was \$3,200 a year, as compared to \$1,000 for Negro families.

I pointed out last February that raising these levels to a position of equality would add \$8,000,000,000 to the purchasing power of the American people.

Those \$8,000,000,000 are no greater than our combined expenditures under the Truman doctrine and ERP.

The absence of those \$8,000,000,000 help explain the growing numbers of unemployed, the increasing bankruptcies among average businessmen, rising inventories, and fears of depression shared by workers, farmers, and almost every group of Americans.

It is not only the Negro American, but the whole American people, who pay for Jim Crow.

They pay for it in lower wages and lower incomes. Monopoly has a vested interest in keeping a so-called pool of unemployment to act as a lever to depress wages and to keep the power of the trade unions in check. There are unfortunately many men like Senator Taft who believe that "the poor we always have with us." But there are more men who welcome having the poor with us—because it enables them to keep up the competition for wages. And just think what a wonderful instrument they have if in addition to the usual hazards of the economic system, they also can employ the weapon of race barriers to keep filling that pool of unemployed. That is what you find all over the South, where the pool of Negro unemployed has been used for generations to depress the wages of southern white workers. That is the reason, for example, why there is such a marked differential in the wages of southern workers and comparable northern workers. And that is also the reason, I may add, why there is always a smaller differential when Negro and white workers get together in the same unions, North and South, and demand the same wages.

I say that if we are interested in a full employment economy—we must abolish discrimination in employment. If we are interested in getting all our people to produce what they can—we must abolish discrimination.

Especially injured are the Negro people themselves. The last to be hired, the first to be fired, they are also the first to feel the pinch of general depressions and the last to share the benefits of recovery.

Millions of Negro workmen are unemployed today. This is a clear warning that to the millions of white Americans already jobless, millions more may soon join them.

Six billion dollars worth of equality could put them back to work.

But the Federal Government—neither its executive nor its legislative level—has moved a finger in the direction of equality and full employment.

In fact, both the executive and the Congress have underwritten Jim Crow hiring patterns by subsidizing Jim Crow monopolies to the tune of many millions of dollars.

Of the newspapers and magazines recently given huge sums of money to subsidize their circulation abroad, how many of them will employ a Negro copy reader, reporter, editorial writer, or columnist?

The major recipients of cold-war munitions contracts, such as General Electric, are the most ardent champions of Jim Crow in America, employing only a handful of Negro workers in the most menial and unremunerative capacities.

Incidentally, may I state at this point that the record of our own House on this particular issue speaks very loudly. We have been unable to adopt a single amendment providing against inequality in employment to any appropriation bill, and what is worse, as a result of the combined efforts of both leaderships of both of the major parties, we have been unable to obtain a record vote on any one of these amendments to an appropriation bill. The only way we can get a record vote is to catch them off base and it is, to say the least, a most deplorable situation.

By underwriting Jim Crow, the Executive and Congress are also underwriting a major depression whose victims will number a hundred and fifty million Americans.

The Progressive Party endorses H. R. 21, 1578, and 702, which establish the beginnings of a fair employment practices pattern for America.

We cannot help noting, however, that these bills contain strange and dangerous exceptions. The exemption of State and municipal governments from the obligation to hire on the basis of merit rather than color seems to me to subvert rather than extend the concept of equality. The exemption of religious, charitable, and other nonprofit organizations is a bit of irony that would be hard to duplicate elsewhere.

The Progressive Party insists on the elimination of these exemptions. Let's not leave any cancerous roots from which more Jim Crow can grow. And I have already mentioned that discrimination for political beliefs or affiliations should also be outlawed.

I feel it my duty to say frankly that the Progressive Party will not consider the matter closed if this Congress should fail to pass FEPC.

You may put these bills out of sight, but we will keep them on your mind, and millions of Americans of all colors and creeds will help us do just that.

FEPC is a daily issue in the life of America.

It is an urgent, top-priority matter for millions of Americans.

Mr. MARCANTONIO. And, for myself, I would like to add that, from the very inception of wartime FEPC, I have been a most active advocate of this cause. I introduced the very first FEPC bill, back in 1940—even before the wartime FEPC Executive order was promulgated.

The record will show I was one of the leaders in the fight to retain wartime FEPC and led the attempt to break the filibuster which was being carried on against permanent FEPC when this committee reported it out in the Seventy-ninth Congress.

We failed in that attempt to break the filibuster. The filibuster was successful, even in the House, and it was successful only as the result of the coalition between both Republican and Democratic leaderships.

I do hope that not only will this committee report out this bill forthwith, but that the leaderships of both parties will break down the

parliamentary barriers that will in all likelihood be erected against this legislation.

There is a big difference from what appears on the surface or what is recounted in the press and what actually goes on in the House.

Most of this legislation would be passed without delay if the people were made aware of the parliamentary devices that are employed against progress in Congress.

These devices are a most serious peril which I hope the committee will overcome, not only in reporting out the bill but in getting it through the maze of parliamentary maneuvers and double talk that will be employed to delay and defeat this legislation.

This legislation is very, very long overdue. It should have been on the statute books immediately following the war.

I do hope that the Eighty-first Congress, despite the cold-war economy and the policy of empire abroad which negates this legislation, will at least make this slight effort in the direction of equality at home.

I thank you very much, sir.

Mr. POWELL. Thank you so much, Representative Marcantonio. I would like to ask you a question.

Mr. MARCANTONIO. Go right ahead.

Mr. POWELL. In the first place I want to compliment you in obtaining the only record vote in the Congress when you sent an amendment to the Coast Guard Reserve bill to the House. That amendment passed by about 40 record votes.

I think that is proof indicative of the fact that if the leadership let these bills get on the floor where a man cannot hide behind a standing vote or a teller's vote, and has to come out on a record vote, these bills will come through.

I have carefully examined the record for that. That amendment you offered is an amendment which wiped out discrimination and segregation among the employees and officials and everything connected with the women in the Coast Guard. There could not have been a wider amendment and, when you look at the record, you find voting with you on that amendment many men in the House who are counted as being very conservative and reactionary and they had to come out and put their names in black and white before the public.

Even a large number of absentees, of which unfortunately I was one on that day, which fell on Monday, were paired on the votes. It is the largest number of pairs I have seen in some 6 years. There were 84 Members paired on that vote.

I want to assure you that this subcommittee is going to report this bill out. They have given their word—the majority. When it comes before the full committee, our chairman, Mr. John Lesinski, has given me his word, immediately the full committee acts on this, he will go before the House and file under the 21-day rule. We do not have too much hope of getting it through the Rules Committee, but if the Rules Committee gives us the green light, all right. If they don't, we are not going to stand around on the red light.

I do not have any stomach for this talk that civil rights is not going to be acted on in this session. It was a promise to the people and the people elected a Congress and a Senate and the gentleman in the White House on the basis of those promises.

I am going to do everything I can and fight to see that it comes before this session of Congress, regardless of where the chips may fall,

and if there is any double dealing or double talk, I am going to publicly put it on record, because you know and I know that we waste more time here than we use. There is ample time to get through all of the progressive measures which are part of my party platform—plenty of time to do it—and you know and I know we are boondoggling here in Congress. Our leadership is.

I agree with Mr. Wallace when he mentions the staggering cost of Jim Crow. Such widely divergent opinions agree with him, such as Leo Cherne, who testified that Jim Crow cost \$15,000,000,000 a year.

I also agree with Mr. Wallace about the shocking situation in the Post Office Department in regard to Negro clerks.

I do not know of any new answer to the loyalty order, but there is one thing I do know: That the National Negro Postal Alliance are constantly bombarding the White House and Members of Congress and myself with the fact that Negroes are being persecuted by the loyalty boards in this Nation for no other reason but the fact they want to be American citizens, and throughout this country 80 percent of the loyalty cases are Negroes.

Some charges are that they are members of the National Association for the Advancement of Colored People! It may be that this committee might go into that.

Without objection, I would like to include at this point in our record Senator Langer's report from the Eightieth Congress on discrimination in the United States Post Office Department. It is the official Senate report.

I wonder if Mr. Klein would bring that to me right now—the official Senate report? Maybe we would like to go into that right now.

(The report referred to is S. Rept. 1777, pt. 2, 80th Cong., 2d sess. It is entitled "Postmaster Appointments Under Civil Service." It is in the committee's files for reference.)

Mr. POWELL. One last thing I would like to ask you. Would you be in favor of FEPC, or how would you vote when FEPC came before the House and was emasculated to the standpoint that the enforcement power was taken out?

Mr. MARCANTONIO. I would vote on that the way I did on the Sims bill. I would vote against it. You are not going to have any real FEPC without enforcement power, and the danger in adopting that kind of an FEPC is that you would be fooling the people. You would be lulling them into a false sense of security. They would be feeling that they have an FEPC when in fact they would not have it. It would be similar to reincarnating the Taft-Hartley Act in the form of the Sims bill, repealing the title, when as a matter of fact you would continue to have a Taft-Hartley law. Any law without enforcement provisions would give the people the feeling they have FEPC when as a matter of fact they would have Jim Crow. You have got to have enforcement. You cannot get away from it.

Coming back to the other proposition, if I may, Mr. Chairman, you will recall the two bills, one was the 70-group Air Force and the other the \$16,000,000,000 appropriation for armaments. On one you were very helpful. You asked for yeas and nays, but we failed to obtain them. On a motion to recommit to provide for equality in employment in connection with the 70-group Air Force we were unable to get a record vote.

Later, when we had the \$16,000,000,000 military appropriation bill, you will recall we were outmaneuvered when a Member offered a straight recommittal motion for the sole purpose of depriving us of the opportunity of offering an antidiscrimination motion.

Mr. POWELL. I recall a gentleman in the House rising to his feet and saying he was not in favor of it and he finally voted for it.

Mr. MARCANTONIO. He did not vote at all, even though he qualified to offer the motion by stating he was opposed to the bill.

In the light of that kind of maneuvering, to make FEPC successful in the House, two things are required. This fight must be carried to the people and I think these hearings have been very, very useful in that direction, and my second thought is to obtain a record vote on every stage of the fight. With a record vote we can win. Without a record vote we cannot win.

Mr. POWELL. I do not see any reason why if men can form a coalition for reactionary purposes, to impede progress of democracy, that the other men of the House cannot form a coalition for the progress of democracy on this issue.

Mr. BURKE, do you have any questions?

Mr. BURKE. Mr. Chairman, I have a couple of observations.

Mr. POWELL. Yes, sir.

Mr. BURKE. On the subject of these various civil-rights amendments to the different bills that have come up, sometimes I voted for and sometimes against them, for this reason: That I reserved the right to judge the applicability as applied in that particular bill. If I thought an amendment was collateral to the purpose of a bill I might have voted against it, or probably did vote against it.

In another bill, the civil-rights provision was directly applicable to the provisions of the bill and therefore was well placed in that particular bill.

Now, for instance, if in the Lesinski bill, this thing came up, I would have voted against it because I felt that we were fighting the Taft-Hartley Act, and one of the bases on which we were fighting it was the collateral provision that had nothing to do with labor-management relations, as such, and I would much prefer to have that handled in a separate bill by itself, such as this bill we are considering now.

That is the reason, you might say, my vote has been divided on this particular issue.

Now being a rather naive freshman Congressman here, I do not quite understand some of the implications of Mr. Wallace's statement. It would seem to me that he expresses opposition to the bill that the committee is considering on the basis of challenging the sincerity of the administration advancing the bill.

Mr. MARCANTONIO. May I interrupt? He does not appear in opposition to the legislation. He most sincerely favors it.

Mr. BURKE. This particular legislation?

Mr. MARCANTONIO. Yes, sir. He simply states, and very correctly, that the trend, as far as the executive departments are concerned, and the trend as far as Congress itself is concerned, up to now has been against civil-rights legislation. I think the record bears him out. Whether you are a freshman or have been here many years, it is very easy to see that the provision for cloture cannot be invoked unless you obtain a constitutional two-thirds majority or 64 votes, that you are

erecting a barrier that is almost insurmountable insofar as civil-rights legislation is concerned.

Mr. BURKE. There is no question about that. That is true, but there are many of us coming here for the first time who have recorded that vote in the State legislature or the city council for this type of legislation, purely on the basis of what that legislation contained, not who wrote it or anything of that sort.

Mr. MARCANTONIO. There is no question as to Mr. Wallace's position. It is in writing. He stands behind the legislation and he is forcefully behind it; farther he is pointing out the double talk and manipulations and maneuvers going on against this type of legislation.

May I add also in connection with voting on various civil-rights amendments, it does seem to me that when Congress makes an appropriation of \$16,000,000,000 which is going to go into manufacture as well as the maintenance of the armed forces, that certainly the majority in Congress is remiss in its promises on civil rights when it refuses to write into that legislation an amendment guaranteeing against segregation in the armed forces and guaranteeing against discrimination in employment involved in the manufacture of these war materials.

Mr. BURKE. I will agree with you, but of course, if Congress adopts this legislation then automatically it becomes—

Mr. MARCANTONIO. Of course that is the difficulty and that is the difference of opinion which has developed and which is becoming very dangerous and it is this, to do nothing with regard to civil rights, whenever you have the opportunity to do something on the theory that there is this over-all legislation ahead. Some of the so-called liberals—and I use that term very advisedly—say let us wait until this over-all legislation is adopted and that will correct everything. I say, no; let us fight for anything when we have the opportunity, as well as this over-all legislation. I say that every time we are up at bat, we must not miss the opportunity to hit the ball. If there is an appropriation of several billions of dollars involved covering manufacture or purchase of materials we want to see that it is spent under FEPC conditions. Certainly that is not negating the attempt to pass this over-all legislation.

Mr. BURKE. I think I voted for that. I thought the argument was rather tenuous, to say the least. I can quite agree with you.

Mr. MARCANTONIO. We are going to have that question when the housing bill comes up.

Mr. POWELL. That is right.

Mr. MARCANTONIO. My position is very frank on it.

Mr. POWELL. Let us hear it.

Mr. MARCANTONIO. I say if we have reached the point in the United States where we cannot have public housing without segregation then we just ought to abdicate our offices here and quit.

I say that it is the duty of everybody who wants public housing to fight for antisegregation clauses in public-housing legislation.

Mr. POWELL. I have been approached by Members of Congress on both sides of the aisle about passing an antisegregation amendment to the housing bill.

As I did on the amendment in the Lesinski bill, I told them that my position on the housing bill is different because segregation is in the housing bill—not private, but governmental—and it has been the law.

The FHA has even in New York, where we lived, allowed segregation to be part and parcel of its policy.

It is a situation where we find a certain segregation policy of the United States, and I feel that the hands of all members of our group are clean on the situation.

Mr. MARCANTONIO. Exactly. We have got to fight it.

Mr. POWELL. We cannot allow the Government to legalize segregation.

Mr. MARCANTONIO. By refusing to fight it we put the stamp of approval on it.

Mr. POWELL. So not only am I at the place now where I am not going to oppose it, but I am thinking of offering the amendment myself.

Mr. MARCANTONIO. If you do not, I will. If you do, I will support it.

Mr. POWELL. I would like to say one thing. The Coast Guard bill is coming up in a day or two.

Mr. MARCANTONIO. Without antisegregation?

Mr. POWELL. It will not come up—

Mr. MARCANTONIO. That again shows Mr. Wallace is right.

Mr. POWELL. Our last witnesses are Mr. John A. Davis, professor of political science, Lincoln University, and Mrs. Marjorie McKenzie Lawson, who were experts during the entire wartime FEPC, and they will conclude the testimony before the committee.

Just before you begin, will you give to the reporter your exact names and what positions you held under the wartime FEPC, so we may have it for the record?

TESTIMONY OF MRS. MARJORIE MCKENZIE LAWSON, FORMER ASSISTANT DIRECTOR, DIVISION OF REVIEW AND ANALYSIS, FAIR EMPLOYMENT PRACTICE COMMISSION; AND JOHN A. DAVIS, PROFESSOR OF POLITICAL SCIENCE, LINCOLN UNIVERSITY

Mrs. LAWSON. My name is Marjorie McKenzie Lawson, and I was the assistant director of the Division of Review and Analysis.

Mr. DAVIS. My name is John A. Davis, and I was assistant director of the New York State Committee Against Discrimination, which was the first governmental committee against discrimination in the United States, and I directed the analysis division of the FEPC.

At the present time I am professor of political science at Lincoln University and a member of the firm of Davis, Cohn and Hinshaw, industrial race-relation advisers.

Mr. POWELL. All right. Thank you.

Mrs. LAWSON. Mr. Chairman and gentlemen, in the discussion which has surrounded H. R. 4453, there has been a tendency among its friends and foes alike to disregard the experience of the Federal Government in the field of fair employment practice. We have talked about the problem which H. R. 4453 is intended to meet and the scope of this legislation as if it were uncharted territory. There appears to exist a sort of gentleman's agreement not to mention the wartime FEPC. This bears analysis. The friends of H. R. 4453, being unwitting victims of the unfavorable publicity which FEPC's public hearings and unresolved cases received, think it best not to mention the wartime experiment lest its supposed failures endanger the pending bill. If it were true, however, that the wartime record of the

President's Committee on Fair Employment Practice presented a refutation of the objectives of H. R. 4453, the enemies of this bill scarcely would have overlooked such an unimpeachable answer to its proposals.

The fact is that the Federal Government had, from 1941 to 1946, 5 years of broad experience with the processing and disposition of complaints of discrimination based on race, color, religion, or national origin in an area of activity which at that time was new to government. There is every reason why the Government should rely now on this same learning in deliberating H. R. 4453.

During its peak activity, FEPC closed about 250 cases a month. Of these, 100 were satisfactory adjustments. This meant that a valid complaint of discrimination had been filed, an investigation made, evidence of discrimination found, and a settlement reached by means of peaceful, on-the-spot negotiation at least 100 times a month. These cases never were referred to the national office in Washington, there were no public hearings held, there was no publicity about the matter one way or another in the newspapers. These cases were like happy marriages. No one heard about them. Perhaps they were presumed not to exist. But the reports on every one may be read today in the FEPC files in the National Archives. The big recalcitrant cases, involving the southern railroads and the railway brotherhoods, the boilermakers' unions and the Capital Transit Co., of Washington, D. C., made the headlines, just as divorce statistics do. These railroads, unions, utilities were aggregations of power which dared to range themselves against the power of Government when it had not spoken in a clear, authoritative voice. These cases demonstrate that the effective enforcement of Government policy must rest on the sanctions which are included in H. R. 4453.

Another lesson to be learned from our wartime experience is the importance of national policy and national legislation. The usual arguments made in favor of uniformity of regulation in matters affecting interstate commerce are especially valid in this field. A great contrariness of opinion exists on what constitutes discriminatory employment practices and an equal divergence surrounds the definition of corrective measures. Approximately 10 States and 5 cities have passed FEPC laws. Excellent though they are, they do not remove the need for Federal legislation. Consider that many States had "blue-sky" laws; yet we needed a Securities and Exchange Act. Some States had unemployment compensation laws, but not until the Social Security Act was passed did they obtain a release from the economic disadvantages of the competing of sister States or of the fact that most States had no laws at all.

In the words of Mr. Justice Cardozo, the operation of such a law as H. R. 4453 "is not constraint, but the creation of a larger freedom." States which are strong enough and enlightened enough to pass FEPC legislation may refrain from doing so because they fear the influx of a disproportionate number of minority workers from the States in which such workers suffer discrimination. National legislation creates the larger freedom in which States may work out supplementary programs without fear.

During the war, the Government learned that most people will agree that discrimination is an evil which has no place in American in-

dustry. What they disagree about is what constitutes discrimination. To have a national standard and a national definition such as is contained in H. R. 4453 eliminates the disagreement. It is the common experience of all of us that violent disagreement is itself often a sign of uncertainty. A great deal more myth than fact is to be discovered in racial attitudes. The Government found that employers or unions which were admittedly discriminating against minority workers were apt to say that they had done it because of what the "other fellow" would think, or say, or do.

The status of an individual or a plant or a union is tied up with conformity to the prevailing pattern. Change the pattern and you change the attitudes. We often saw communities which had competed with each other in practicing discrimination compete just as earnestly to eliminate it once the need for doing so was understood by them and required by Government. Perhaps the single most significant piece of learning which our wartime experience has left us is that employment discrimination is a field in which people, employers and workers alike, want leadership. One may not have the skills or the knowledge to stand up against an attack on one's individual policy of nondiscrimination. But one does not have to defend Government policy when it hews so close to constitutional principles. One need not be a pioneer nor feel guilty about following Government leadership.

Beyond the advantages of uniformity of regulation and the security of national leadership is the demonstrated necessity of an integrated and continuing program for equalizing job opportunity. With such protection, minority workers will be a disproportionate number of those unemployed, receiving unemployment compensation or public assistance.

At the beginning of the war, Negro workers, for example, were lower on the occupational ladder than they had been at any previous time. The great bulk of all Negro workers were manual laborers and domestics. For the most part they had lost their earlier representation in skilled and semiskilled occupations. During the early war period their position did not improve. Not until after the promulgation of Executive Order 8802 and the industry-wide hearings in aircraft and shipbuilding held by the first committee appointed by President Roosevelt did gains begin to be reflected.

Progress was slow, but by 1945 Negro employment had risen to 11.4 percent of the total.

We all know that Negro and other minority workers have sustained employment losses in the post-war period. Except for certain communities and perhaps a few States we know this only empirically however, because we have no national statistics on employment by race and by sex. This fact alone is indicative of the national myopia concerning the problem of discrimination.

The United States Employment Service reported throughout the war on nonwhite employment, but this resource has been gone since 1946. Other reporting agencies of the Government either do not have budgets adequate for the preparation of such specialized data or, to be frank, they are not interested.

We know that the civilian labor force as of April 1949, totals 60,800,000. Of this number 57,800,000 persons are working and there are 3,000,000 unemployed. We have no breakdown, as I have stated, of these figures by race.

The unemployment rate for April 1949, is 5 percent. In April 1948, it was 3.6 percent, but we should remember that employment reached a post-war peak of 61,000,000 in July 1948.

The Census Bureau does publish a monthly percentage distribution of the employment status of the civilian labor force by race and by sex. By means of this information we know that 66 percent of the white population 14 years of age and over and 60 percent of the non-white population 14 years of age and over were in the labor force. The disproportion results from the fact that less than 30 percent of white women, but more than 40 percent of nonwhite women are workers outside their homes. Of all white workers who are in the labor force, 4.7 percent are unemployed, whereas 7.6 percent of nonwhite workers are without jobs.

In April 1948, these figures were 3.8 percent for white, 6.5 percent for nonwhite.

In April 1947, they were 3.8 percent for white and 6.7 percent for nonwhite.

Consider, however, that in July 1945, when wartime employment was at its highest level, only 1.7 percent of white workers and only 2 percent of nonwhite workers were unemployed.

What do these scant statistics tell us? First, that Negro workers lost their jobs three times faster than white workers after the war. Moreover, they have not improved on their disproportionate losses since that time.

Our second lesson is that full employment is not fair employment. We once thought of 60,000,000 postwar jobs as an unrealizable goal. A year ago there were over 61,000,000 people working. In that favorable situation there were proportionately twice as many jobless Negro workers as there were white.

When FEPC was liquidated in June of 1946, these losses were predicted. But with continuing controls, they were not inevitable.

The Census Bureau did a special study of New York City in April of 1947 for the Urban League. It was expected that many wartime gains would have disappeared. The declines were not so sharp, however.

In April 1940, 64 percent of all Negro women working in New York City were in domestic service. In April 1947 only 36 percent were so engaged. In April 1948 only 3 percent of the Negro women workers were clerical, sales, and kindred workers; in April 1947, 13 percent were in this category.

We can see that many have survived the postwar crisis. There is no question that minority workers in New York City and New York State are cushioned against widespread discrimination by the State laws against discrimination.

We have learned in a very practical way on both the State and National level that the primary remedy for discrimination in employment is corrective legislation.

Minority workers have paid bitterly in lost jobs, lost and unused skills, for our learning. It is not often that a people who are faced with a social and economic problem of the duration and seriousness of this one can turn to a solution and a method of demonstrated effectiveness.

It is my conviction that the majority of the American people hope that the Congress will utilize the solution and the method in H. R. 4453.

Have you any questions on these statistics?

Mr. POWELL. I would like to have Mr. Davis make his statement and then we will proceed with questions.

Have you a question right now, Mr. Burke?

Mr. BURKE. Yes, Mr. Chairman.

Mr. POWELL. Mr. Burke has a question now.

Mr. BURKE. The percentages that you quote of the unemployed at the present time, the greatest percentage of Negro unemployed, can be traced probably not only to one factor but to several. Isn't that true?

Mrs. LAWSON. That is true.

Mr. BURKE. That is, it may not be purely because of discrimination. For instance, in the shop where I worked before the war, there were probably 5 to 6 percent of the total workers who were Negroes. During the war, due to migration and other things, that percentage rose to around 14 percent. But we operate according to strict seniority rules, and the 5 or 6 percent who were employed prior to the war are still working because they have seniority and job-security rights.

The only controlling factor in the lay-offs of those who came in during the war is their seniority. Race has nothing whatsoever to do with it. So they are laid off with all of the rest of the working force up to the point of their seniority. You see what I mean?

Mrs. LAWSON. Yes, sir.

Mr. BURKE. Employment practices in the industry probably go back before the days of the union and were the indirect cause of the seniority rule, but the lay-off practices at that time, because of the strict seniority—and Mr. Houston testified here the other day he would not in any way disturb seniority systems, because they provide equal considerations in lay-offs—

Mrs. LAWSON. I would like to comment on what you have just said. One of the problems that concerned us very much, when we wound up FEPC, was that we knew under strict seniority rules that Negro workers would lose their jobs. Yet FEPC had a policy to observe seniority. Many unions had various ideas which they suggested which would have tended to break such a loss, but we realized it was very important to protect such seniority.

It was not postwar discrimination alone, but, as you have pointed out, it was earlier discrimination which meant that Negroes were the last to be hired and the first to be fired.

Mr. BURKE. That is true.

Mrs. LAWSON. Plans should have been worked out to be sure the lay-offs were in accordance with seniority and not discriminatory.

Mr. BURKE. But they have one advantage that they did not have before, when the work force is brought back up to a higher level they are brought back according to seniority.

Mrs. LAWSON. Perhaps Mr. Davis would like to add something to what I have said.

Mr. DAVIS. In the closing days of FEPC when there was this problem of reconversion there were many suggestions that FEPC develop with certain unions a formula which would enable a percentage of Negroes to remain on the rolls.

The general attitude—I do not know whether the committee took a formal stand on it or not—but the general attitude of the committee and others of the staff was, "we will stand by seniority." It is too im-

portant to the principles of the laboring Negro to be tampered with.

Mr. BURKE. It safeguarded job rights that were not safeguarded before.

Mrs. LAWSON. That is right. It was never our policy in FEPC to work out any kind of regulation or method of operation which was preferential. We found we could set our standards which would insure fair employment to minority workers and which would not work a hardship or be unfair to other workers.

Mr. BURKE. With that preference in the hiring in the shop, when the work came in they would take No. 1 job and No. 2 job.

Mrs. LAWSON. By "preferential," I mean preferential for Negroes as a group.

Mr. BURKE. I meant nothing preferential, and, of course, if the requisition called for a certain skill, the first person who filled that particular skill was given a requisition regardless of what his race, creed, or color was, although there might be several people in line who were waiting there, and might jump over those in order to get this one particular skill to fill that particular requisition.

Mrs. LAWSON. I think it is true, Mr. Burke, that you can keep your standards objective in administering the law.

Mr. POWELL. Mr. Davis, will you make your statement?

Mr. DAVIS. Yes, sir.

Mr. POWELL. Do not leave, Mrs. Lawson, because we may want to ask you some questions.

Mrs. LAWSON. I am not. I am just moving over.

Mr. DAVIS. Mr. Chairman, when I started, I might state as early as 1933, I was interested in fair employment, and you probably remember that. I think we were working together in Harlem.

Mr. POWELL. Yes, sir.

Mr. DAVIS. I want to make comment under three general headings. I do not want to duplicate anything Mrs. Lawson has said.

First, I want to make some remarks on the technical aspects of the bill. It seems to me that H. R. 4453 is an excellent bill as far as fashioning an instrument to combat discrimination in employment is concerned.

Secondly, I want to point out the relationship between full employment and fair employment, because one is certainly related to the other, and you cannot achieve full employment without fair employment. I want to note the large extent to which the Government's wartime policy against discrimination in employment was a success, and especially the work of the Committee on Fair Employment Practice.

Thirdly, I want to emphasize, perhaps in a somewhat different fashion, what Mrs. Lawson has said about the success of the FEPC wartime record.

I want to note the factors, or the features, which I consider especially important, which certainly will allay the opposition of many Members of Congress.

The bill quite properly proposes to proceed by hearings and cease-and-desist orders enforceable in the courts and not by fines and imprisonment. It does not attempt to fine anybody without any reason or put someone in jail. What it involves is social progress and not a question of an individual's guilt. It seems to me that is an excellent approach.

The bill provides for local and regional advice, for conciliation by groups of citizens, and even for the ceding to State, Territory, and local agencies jurisdiction over particular cases.

Now it seems to me this is not Federal dictation in any way, shape, or form. This is Federal, State, and local cooperation. This provides a vehicle which can be used to enforce the law anywhere in the United States. It seems to me that good will and good faith can actually count under this proposal, and I think especially good will, and because of this feature I was struck by it immediately.

In this respect it differs from many other bills which have been presented. There are a few minor suggestions I would like to make from my experience in the field of fair-employment practices. On page 9, line 14, it would perhaps help to insert the words "acting in good faith" after the word "employer." Quite often employers and unions opposed to fair-employment practices will deliberately stir up employees in opposition to fair employment by open or covert methods. It hardly seems fair to the Commission under such conditions to place it under the apparent burden of attempting to cooperate with such employers to conciliate employees.

In wartime FEPC I had one experience with one employer who came to us for assistance. We endeavored to give him assistance and at the same time he was engaged in stirring up employee resistance and siding with his employees. Without that clause in there you will get nowhere. I remember that particular employer came to us and I attempted to handle it myself at that time.

Mr. POWELL. Is that page 9, line 14?

Mr. DAVIS. That is right; after the word "employer" insert "acting in good faith."

Mr. POWELL. Thank you.

Mr. DAVIS. Now it is because of this question of the possibility of group resistance which I think is the Achilles heel of the administration of the FEPC, that I think that section 14 should be strengthened. This is the section that provides for a fine of \$500 and imprisonment of not more than 1 year for anyone who impedes or interferes with any agent or employee of the Commission. That is good, but it seems to me you should strike at something else, which quite often is the roving agitator who stirs up employees to resist as a group an action of a union or an employer where they are trying to carry out the orders of the Commission.

This section does not deal with that individual and I would suggest the act provide for an injunctive procedure by which he can be stopped by the courts. As the section stands, it raises a question of a trial by jury, and you know what that means in certain parts of the country, as far as discrimination is concerned. As I see it, injunction procedure would tighten the bill in this respect and does not make it a punitive bill. It does not punish anybody. It merely orders people to do things and sees that they do it, but our problem in FEPC is largely handling that kind of situation.

I have two other suggestions. One is that the bill refers to the matter of judicial review by saying that the courts shall handle the matter in accordance with section 10 of the Administrative Procedure Act. That section seems to be too broad and general and it might be well for H. R. 4453 to state the degree of judicial review of the

facts found by the Commission. There is danger of creating impotence in the Commission by making possible a trial de novo in the courts as to questions of fact as well as of law.

Mr. POWELL. Do you have a suggestion for the committee at that point?

Mr. DAVIS. I think you might look at the provisions of the Securities and Exchange Commission Act and the National Labor Relations Board Act. They have both a statement on this subject. Generally I prefer a statement that the findings of the Commission shall be final with regard to fact if supported by substantial evidence, and I think that will be accepted under section 10 of the Administrative Procedure Act.

One other thing, and this is with regard to legislative findings in section 2, which I consider excellent on the whole. I especially like the finding in section 2 (c) (ii), which refers to privileges and immunities, because some members of the courts are trying to open up that section and breathe a meaning into it, and if they do and overrule the slaughterhouse cases, we can get somewhere in the civil rights in the United States.

It seems to me the long use of unfair employment standards is a finding upon which this bill will hang.

While discrimination does at this time cause obstructions to the free flow of commerce, the findings of H. R. 4453 would be stronger perhaps if they also referred to the economic effects on interstate commerce which follow in the train of discrimination. Thus, discrimination creates a pool of underpaid and unemployed and underutilized labor, thereby cutting purchasing power and limiting the volume and the flow of interstate and foreign commerce. This was the constitutional construction behind the Fair Labor Standards Act and the courts substantiated this construction in the case of *United States v. Darby*. It seems to me it is a technical objection you may want to protect yourselves against.

Now this brings me to the second point, which concerns the relation between full employment and fair employment. The United States is committed to a policy of full employment as embodied in the Employment Act of 1946; yet, it is certainly true that it is impossible to achieve this goal with any permanence as long as discrimination is employed and goes on unchecked.

It should be evident to everyone that underconsumption, the lack of the capacity of the mass of the people to consume, is one of the major issues, one of the major causes for the lack of full employment and for unemployment in the United States. When one considers that there are about 30,000,000 people who are minorities in different parts of the United States, it can be seen how economic discrimination which results in low wages, bad housing, ill health, wage differentials, and so forth, is a major factor in keeping down mass capacity to consume. If this economy is to run full blast, money must be placed in the hands of people who consume, not the people who save. The great portion of America's minorities are consumers, pure and simple.

We have had this in all sections of the United States. They are all subject to the same kind of discrimination.

There is the picture of how we got interested in this bill, and there was a time in New York when the United States Employment Service

had regularly on its cards "WXP" and that meant white, Christian, and Protestant. That excludes a lot of people besides Negroes.

If you include the 30,000,000 people who are depressed as far as their purchasing power is concerned you have a real drag on your economy and economic discrimination then results in lower wages, bad housing, ill health, wage differentials, and the situation of reducing the capacity to consume products manufactured.

It seems to me in the long run it is impossible for the majority of the workers to be secure in their preferred positions while minority group workers are unemployed, underpaid, and unfairly paid. The competition of cheap products made by minority group workers and the competition of a large pool of unused minority workers will inevitably drive down the wages of all workers. This in turn further destroys the consuming power and causes cumulating unemployment. In fact, the inability of the minority group worker to consume destroys the very jobs which majority group workers seek to safeguard by resisting the employment and proper utilization of minority group workers.

There are other serious economic costs which result from the failure to employ minority group workers. Obviously, their full productive capacities are lost to the community when they are unemployed or under utilized. Minority group workers are a drain on the tax funds when they are on relief, and their bad health, caused by bad housing and the lack of sufficient income to sustain creature necessities, is not only a burden on publicly supported tax facilities, but it is a source of infection to the whole community. Moreover, bad health impairs their working capacity and their capacity to develop themselves.

If recession comes to the United States, the minority worker will undoubtedly be the first fired. He was the last hired in most cases and has the least seniority. He was the last hired and therefore will be the first to go. Current census figures indicate that a larger proportion of the nonwhite labor force is at present unemployed than of the white labor force. When I was in FEPC we estimated that if employed persons dropped below 57,000,000, the nonwhite worker would experience serious unemployment because of the effects of discrimination in a relatively loose labor market. This figure is being approached. The employed labor force in February was 57,187,000.

Perhaps the most important thing which can be said in testifying on the proposed bill is that the enforcement of fair employment practices can be and has been done. We have seen a remarkable thing in the United States since 1945. We have seen the Congress of the United States deliberately turn its back upon a democratic advancement which had in part been achieved. Once in 1876 and again in 1946, the United States deliberately pressed down upon the struggling Negro and turned back his progress. There has never been an anti-poll-tax law, an antilynching law, and it can be argued that such laws would not be successful. But there was a Federal Fair Employment Practice Committee and it was, to say the least, moderately successful.

The body politic has deliberately turned its back upon this record of achievement. In the eyes of the world we have chosen to retrogress in our racial policies and in the middle of a cold war with Russia. The pledge made to the minorities of the Nation has not been kept now that the war for democracy is over. The record of FEPC demon-

strates that it is possible to eliminate job discrimination, and day by day the activities of four State commissions back up this demonstration.

The figures of the FEPC were widely publicized by its benefactors in order to get it to do more, and by its enemies, especially in Congress, in order to kill it. The day-to-day job was for the most part ignored. It will be helpful to review this record which is justly set out in the first and second reports of this committee. FEPC usually handled successfully and without fanfare some 100 cases each month. These cases were settled largely by negotiation between field men and the parties charged without benefit of hearing. On the whole, the FEPC was unable to handle successfully only about 6 percent of the cases.

A few figures can best summarize the success of the wartime policy of the Federal Government in pursuing its nondiscrimination policy. During the national defense and early war years, Negroes represented 25 to 38 percent of the relief rolls in leading industrial cities. In July of 1942 all nonwhites were only 2 percent of all persons engaged in war production. By 1944 they were 8.3 percent of all persons in war industries. Over half a million Negro workers were upgraded to semi-skilled and skilled jobs by April of 1944. Negro employment by the Federal Government also increased in volume and quality, reaching 12 percent of all Federal employment in 1943. Unfortunately, much of this employment, both governmental and industrial, was of a temporary war character.

Quite to the contrary of current conceptions, FEPC would be the easiest of the President's civil rights proposals to administer. It alone involves a controlled situation in a plant with the available disciplines of management and labor on hand to aid in getting the job done. It would be impossible to list a host of companies and unions in the North and South which tackled the job of promoting fair employment and made marked headway. In addition there were many companies in the South which utilized Negroes on a relatively fair basis even before the war. Moreover, for the most part, and with the exception of the State of South Carolina, segregation is not an issue in the work situation in the South. That is especially true in the small plants.

Management and unions with the help of a Federal order were able to do the job to a large extent. They were able to do it by managerial skill and by employing the latest techniques for the management of human behavior.

As early as 1942 I noted some of these techniques in a pamphlet entitled "How Management Can Integrate Negroes in War Industries." A similar pamphlet was written by the American Management Association and the matter was also treated in the Management Record of the Industrial Relations Conference Board. Robert M. MacIver, Stuart Chase, and Burleigh Gardner have all treated recently, in their books, concerning the science of managing human behavior in the plant to achieve the ends of fair employment.

The Federal Government was able to present model demonstrations of fair employment because of the skills of certain personnel officers. During the war the jobs done in the following agencies were notable: OPA, WLB, FEA, WMC, TVA, Interior, Labor, War, and Navy. This is not to say that all Federal departments got into line with the President's nondiscrimination policy.

Mr. POWELL. In connection with that last statement, I want to quote from an editorial which is contained in the committee's files—

it is from the *Birmingham News*—and the closing sentence of the editorial, bearing on the wartime FEPC, says:

It is simple elemental fairness to be fair. * * * That is one of the things this war is being fought for.

I am just quoting that from the *Birmingham paper* to substantiate what has been said.

Mr. BURKE, have you any questions?

Mr. BURKE. I would like to pursue this matter just a little further. In line with some parts of your testimony, I quite agree with you that it is a tragedy that Congress did not do anything to keep FEPC alive.

Mr. DAVIS. It could have done something, but it did not do anything but kill it entirely.

Mr. BURKE. But we can also say that the effect of the FEPC and the effect of the well-thinking people, particularly in management and in unions throughout the country is still alive.

Mr. DAVIS. Yes, sir.

Mr. BURKE. And it shows also that this legislation can work, with the break-down or the elimination of the wartime FEPC, which was probably a tragedy in the American way of life, but at the same time the work that it had done still lives on.

I know of cases, for instance, prior to the unions coming in, in addition to the job-security rights under seniority they also secured upgrading rights for Negroes. The upgrading was achieved and the union gained those rights and those people now maintain their better jobs by virtue of their seniority and by virtue of their qualifications by which they merited those jobs, and they cannot be taken away from them.

Mr. DAVIS. Yes, sir.

Mr. BURKE. Now I know in several shops, and it is probably pretty well Nation-wide, when a recession of employment comes about, and it has come in many places, the Negro either bumps or is bumped, not because of the color of his skin, but because of the date of seniority.

Mr. DAVIS. Congressman, I think FEPC was moving along successfully, and it was really changing things in America. We have 10 State commissions. I am not too familiar with them, but I am under the impression that most are pretty good and get things done. I think the thing will go on and it will eventually mean that fair employment practices will be passed by the United States Congress.

Mr. POWELL. We are bringing our hearings to a close now, and there are some things that I would like to summarize and then ask both of you one or two questions.

The opponents of FEPC, who have not been many, have mostly come from the South, and when they have come from the North have been mostly ignorant. Those who oppose FEPC from the South are not ignorant. They know FEPC and know it well, but those who do oppose it from the North are mostly ignorant and do not know what it means.

They have advanced the following arguments against it:

(1) Unconstitutional. We have done away with that. We have had various witnesses before the committee and questioned them and they rebutted that.

(2) The argument of freedom of association. We have had some witnesses to disprove that and pointed out that a worker on a job

under the union law or the law of the land, either worked with his fellow workers or quit.

(3) Next we have the objection of States' rights. We pointed out under the Interstate Commerce Act there are no States' rights in that sense of the word.

The FEPC also states when a State or local corporation sets up a fair employment council, or commission, that the powers of this Federal group may be given over to that State or local agency.

The next charge is that pandemonium would break loose. We have questioned such witnesses from the South and the evidence shows that pandemonium did not break loose in wartime and is not breaking loose now. As you have pointed out, the experience of certain unions and certain industries in the South have refuted that.

The ease of the opponents of FEPC revolves around only one thing—when you boil it down it is just one thing—the enforcement power. The arguments that they have advanced have gradually been worn away, but when it comes to the question of enforcement power, that is the point at which the opponents will not give way. Representative Brooks Hays, for example, presented a counterproposal—he even went so far as to say he was in favor of the FEPC without enforcement power.

Now the question before us is a very practical one, and undoubtedly either in the committee or on the floor an amendment will be offered to strike out the enforcement power.

Dr. Davis, I think that enforcement power is desirable and you should not withdraw from that position.

Mr. POWELL. Every worker with the FEPC in wartime and peacetime and the State commissions all agree that we must have enforcement power.

Mr. Davis, You should use the enforcement power as an objective thing. I see that this commission is a Presidential commission. It is assumed that it will use its power with discretion.

Basically on the question of enforcement, I would like to make this point. What is involved is changing people's behavior, their way of acting in a given situation. People do not change their behavior unless the rules of the game have changed. We have seen many situations where various kinds of organizations, various kinds of laws have been set up, when the social practice goes right on. Why? Because in all human situations there are two kinds of organizations, formal and informal organizations. People coordinate their behavior on what actually is the organization and not what people say it is.

Now, in the United States, on the whole, the person who discriminates gets a job that he would not have gotten. He gets accolades of his supporters which he would not have gotten, but it is not permanent.

We have discrimination because people in our States are rewarded by discrimination, but we know in the long run everybody loses, although in the short run you are rewarded.

Now you can set up any kind of commission you want to to advance this, that, and the other thing, and we find people who, as long as the basic situation goes on, a man is rewarded for discrimination, and he is going to discriminate. You have to change that situation. To use a psychological term, the goal response is different. He has to be punished.

Now, having said that, I would say that the job of a Member of Congress involves a terrific question of politics and he has to decide in the last analysis when is best.

Mrs. LAWSON. I would like to discuss some of this off the record, if I might, because it does concern policy involving what you might term strategy, whether or not you get a bill before you without sanctions and whether or not you would want to vote for the bill, and I would like to talk about that off the record.

Mr. POWELL. We can talk about that afterward.

Mr. DAVIS. I think the question is up to the Congressman who has to decide what is best on the record in the past. We know there was a great deal of progress before there was enforcement. I personally do not think that it is necessary in the case of the Federal Government because we have enforcement, and we have this thing. Why go back and start all over again?

Mr. POWELL. Well, on the basis of the testimony of the witnesses who have come before this committee—all of whom are experts in their fields, such as Governor Tobin, who initiated the FEPC in Massachusetts and who is now our Secretary of Labor, the chairman of the New York State Commission, the commissioners of Connecticut and Massachusetts—everyone, without exception, said we must have enforcement power, whether we ever use it or not. In other words, we must have “a whip in the closet,” and on the basis of that I personally, as chairman, must be committed to the enforcement power. There is no point in having legislation if you do not have teeth in it.

Mrs. LAWSON. I think we can look to the experience of some of our earlier administrative agencies which were without teeth. Take, for instance, the National Labor Relations Board which was set up without sanctions, and which was very important and useful in that capacity, but it was subject to a heated question at the time. A law without sanctions was passed, and later sanctions were added to the law. We have forgotten this was the history of the National Labor Relations Board.

The corollary is not the same. We have had experience now and sanctions are important. It is not necessary to go through the process the National Labor Relations Board went through, with FEPC.

Mr. POWELL. To enact any kind of law today without sanctions would be old-fashioned, would be doing something which went out a quarter of a century ago, at least. Is that right?

Mr. DAVIS. Yes, sir.

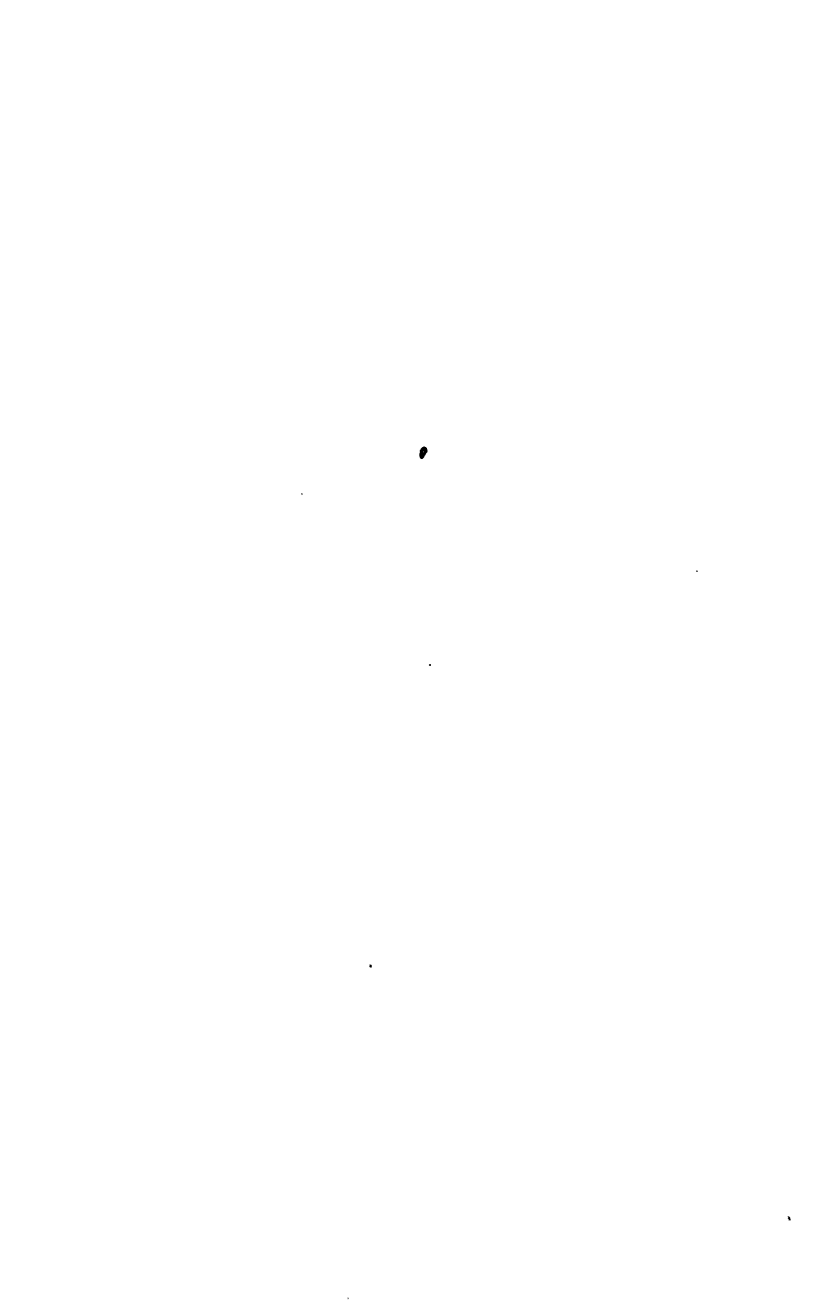
Mr. POWELL. I have no more questions. Thank you very much for coming.

There have been a number of requests from witnesses who could not be heard. If they wish to submit statements, we will include them in the record.

(The statements and letters received subsequent to the close of the hearing are in the appendix, immediately following.)

Mr. POWELL. The committee now stands adjourned, subject to the call of the chairman.

(Whereupon, at 1:30 p. m., the subcommittee adjourned subject to the call of the chairman.)



APPENDIX

Statements and letters received after the close of the hearing, made part of the record by order of the chairman, are as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., June 6, 1949.

HON. ADAM C. POWELL, JR.,
*Chairman, Subcommittee on Fair Employment Practice Act,
House of Representatives, Washington, D. C.*

MR. CHAIRMAN: I appreciate this opportunity to record my support of H. R. 4463, an act to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry.

I have always believed that discrimination in employment is un-American, and that it reduces the American standard of living by creating a low income for minority groups.

During the five terms I have served in Congress, I have repeatedly announced my support of similar legislation, and it is my intention to do everything I can to bring about the enactment of this measure.

FRANK H. HAVENNER, *Member of Congress.*

LOCAL 27, AMERICAN FEDERATION OF TEACHERS,
Washington, D. C., June 4, 1949.

HON. ADAM C. POWELL, JR.,
*Chairman, Special Committee on Fair Employment,
Committee on Education and Labor, House of Representatives,
Washington, D. C.*

DEAR MR. POWELL: Washington, D. C., Local 27 of the American Federation of Teachers (AFL) vigorously supports national legislation which has an objective of fair employment for all American citizens without regard to race, color, creed, or source of national origin.

This local respectfully urges the Congress of the United States, through appropriate congressional committees, to approve such legislation. We further specifically urge requirement of a policy and practice of fair employment in private and government hiring in the District of Columbia, the Nation's Capital. For a number of reasons special attention to the District is reasonable and necessary.

First. The District government has hired Negroes in disproportionately small numbers. Further, Negroes who are hired are mainly employed in menial capacity; actually only 10 percent of the Negro workers in the District government have assignments above the level of laborer or minor mechanic. And although the District government had as an example President Truman's Executive Order No. 9880 prohibiting discrimination in Federal personnel actions, the District has not yet established a fair employment board, nor has it materially reduced discrimination in municipal employment. The following letter, and no change has been made since the date, indicates that no fair employment board exists for the District of Columbia.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICES,
Washington, D. C., October 21, 1948.

MR. PAUL COOKE,
Washington, D. C.

DEAR SIR: In reply to your letter dated October 9, 1948, addressed to Commissioner Guy Mason, relative to the matter of fair employment practice in the District government, you are informed that the Commissioners do not contemplate

the appointment of a District of Columbia fair employment practice committee at this time.

Very truly yours,

G. M. THORNTON,

Secretary, Board of Commissioners, District of Columbia.

Local 27 submits that full attention must be given to fair employment in the Nation's Capital. It cannot be assumed that Executive Order No. 9880 can prohibit discrimination in employment in the District government. The following letter would indicate that separate and special consideration must be given the District of Columbia.

UNITED STATES CIVIL SERVICE COMMISSION,

Washington, D. C., November 3, 1948.

Mr. PAUL COOKE,

Minor Teachers College, Washington, D. C.

DEAR MR. COOKE: Reference is made to your letter of October 9, 1948, addressed to Mr. David Niles, Administrative Assistant to the President, which Mr. Niles has forwarded in the Fair Employment Board for appropriate handling.

In your letter you request information as to whether Executive Order No. 9880, prohibiting discrimination in Federal personnel actions, applies to the District of Columbia. In this connection your attention is invited to the fact that the order states that the term "department" as used in the order has reference to all departments and agencies of the executive branch of the Government. Inasmuch as the District of Columbia is a municipal corporation and not an agency in the executive branch of the Federal Government, the provisions of Executive Order No. 9880 are not applicable to that establishment.

Very sincerely yours,

L. C. LAWRENCE,

Executive Secretary, Fair Employment Board.

Special provision should also be made for insuring fair employment in private industry in the District of Columbia. The flat refusal of the Capital Transit Co. to hire Negro motormen and conductors, while spending money to recruit such workers from Virginia and North Carolina, is a strong negation of the principles of fair employment in American democracy and equally strong in justifying fair employment legislation with enforcement powers.

As school teachers we are particularly concerned about fair employment in the public schools of the District of Columbia, both in its present segregated form and in an integrated system (should Congressman Arthur Klein's bill for integration become law). Again, the hiring of personnel by a District agency, this time the Board of Education, has resulted in disproportionately high number of white personnel in clerical, professional, and administrative capacities at the Franklin Administration Building. Fair-employment legislation would insure more honest hiring under the present dual school system. In an integrated system our teachers' union wishes to be guaranteed that hiring, promotion, and assignment policies for teachers, school administrators, and non-teaching personnel must not be set nor influenced by race, creed, color, or source of national origin.

Further, fair-employment legislation should provide for a procedure of appeal and review in the schools. And again the legislation should provide for powers of enforcement.

Washington, D. C., Local 27 of the American Federation of Teachers, representing hundreds of school teachers in the District of Columbia, respectfully urges the Congress of the United States to approve legislation to require and enforce fair employment in private and Government employment in the District of Columbia, the Nation's Capital.

Respectfully submitted,

PAUL COOKE, *President,*

DON GOODE, *Legislative Representative.*

STATEMENT OF MRS. ALEXANDRIA STEWART, PRESIDENT, ON BEHALF OF THE UNITED STATES SECTION OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM

The Women's International League for Peace and Freedom has been international and interracial in its membership since its founding in 1915. Through these years it has sought to work by nonviolent means to establish the conditions

for an enduring peace. Such a peace, in our view, must be rooted in justice, under law, and it can be secure only if it is based on a dynamic program that protects human rights and enriches human living, not excepting individuals of any ethnic group. We believe that discrimination based on race, religion, or national origin is wrong in principle, and that to deny employment on these grounds is an infringement of one of the most fundamental of human rights. We therefore believe that it should be our national policy to prohibit discrimination in employment because of race, color, religion, or national origin, as provided by H. R. 4453.

We hold that full citizenship entitles every American to equality of opportunity in securing useful employment, in enjoying equal access to education, housing, health, and recreation facilities. We are persuaded by the report of the President's Committee on Civil Rights that flagrant abuses yet exist in this field, among them abuses arising from discrimination in employment based on race, religion, or national origin.

As an international organization, we believe that there is an international reason to endorse the civil-rights program, including FEPC legislation. It is our experience at every international congress that pointed questions are asked about the treatment of minorities in the United States. Our word is not accepted for our deed. The gap between principle and practice must be quickly narrowed if we are to stand before the world as an example of democracy. We believe that the democratic idea cannot win its contest with totalitarian ideology except by moving in the direction of an FEPC and other civil-rights protection. In endorsing H. R. 4453 we do not say that the task of creating the social climate of cooperation and good will can be accomplished solely by legislation. We recognize that legislation will not be sufficient for the purpose unless it is supplemented by a broad educational program, and this we also endorse. But, however profligious the task, we are firm in our conviction that unless religious and racial bigotry can everywhere be shown as destructive of the rights of all, we shall have little chance for peace either within nations or among nations.

We believe that the Universal Declaration of Human Rights has set a common standard of achievement for all peoples and all nations. We believe that freedom, justice, and peace must be rooted in the inherent and inalienable rights of mankind everywhere. We believe that our adoption of H. R. 4453 would be a token of our intention to implement the Declaration of Human Rights.

We endorse a Federal Fair Employment Practices Act, such as H. R. 4453, because it incorporates into public law the principles for which we stand. We believe that this bill, though wide in scope, is realistic and moderate. It legislates no one into a job. Actually, it provides the right not to be excluded from a job by certain classes of employers (among them the Federal Government) because of race, religion, or national origin.

We urge that H. R. 4453 be favorably reported on by your committee, with a view to securing its adoption by the Congress.

OREGON COMMITTEE FOR A FAIR EMPLOYMENT PRACTICES ACT,

Portland 4, Oreg., May 26, 1949.

COMMITTEE ON EDUCATION AND LABOR,

House of Representatives, Washington, D. C.

GENTLEMEN: The Oregon Committee for a Fair Employment Practices Act is in favor of legislation on this subject on the national level and we respectfully request that your committee give favorable consideration to H. R. 4453, now before you for consideration.

This committee has in its membership leaders and members of practically every strata of society in the State of Oregon. All of the great faiths are represented on our board. Our board also includes leaders and members of Young Republicans and Young Democrats as well as the more mature members of both political organizations. A. F. of L. and CIO are represented in our leadership. Business, including some large employers of labor, are actively identified with the work of this committee. Leaders of the League of Women Voters and similar organizations are actively identified in the leadership of this committee. These facts are set forth to show the very representative character of the officers and members of this organization. We were organized primarily to urge the adoption by the Oregon State Legislature of a fair employment practices measure for this State. The Oregon Legislature recognized the validity of the arguments and

facts urged in favor of the passage of the legislation and both house and senate adopted the measure by an overwhelming vote. Copies of the law as enacted are enclosed herewith.

Oregon is a conservative State and most certainly the legislature reflects by and large the thinking of the people of the State. The same reasons which prompted the Oregon Legislature to adopt the Fair Employment Practices Act are present on the national level. We had no illusions that we were going to eradicate prejudice or persuade people to be tolerant merely by passing a law. We were concerned, however, with the fact that people are denied opportunities for employment merely because of their color, their race, or their religion. It is our opinion that withholding opportunities for employment from people because of race, religion, or national origin is not in keeping with the great principles contained in the Declaration of Independence and the Constitution of the United States. It is our opinion that every person should be encouraged to prepare himself so that he may qualify for any job he may prove capable of handling. In this way all workers will have an incentive to obtain education, higher skill, and eventually better standards of living.

In the international scene, the United States is vulnerable to arguments urged by enemies of the American way of life. As long as job opportunities are denied American citizens merely because of their color, race, or religion, enemies of American democracy can well spread the charge that we have not lived up to our claims of equality of opportunity as set forth in the fundamental law of the land.

We respectfully recommend that your committee give favorable consideration to the important bill on fair employment practices, H. R. 4459, which is now before you.

Respectfully,

DAVID ROBINSON, *Chairman.*

STATEMENT OF LOCKWOOD THOMPSON, CHAIRMAN ON BEHALF OF THE OHIO
COMMITTEE FOR FAIR EMPLOYMENT PRACTICE LEGISLATION

The Ohio Committee for Fair Employment Practice Legislation is a State-wide council comprising individuals and organizations seeking to achieve equality of employment opportunity through sound legislation. In addition to hundreds of organizations, civic, religious, labor, veterans, women's, the Ohio committee has branches or councils in 24 cities of the State. There is hardly a community in the State of Ohio where individuals and organizations are not joined in a collective effort to further this cause.

This thoroughly representative movement of the citizens of Ohio is based, first, on the recognition that discrimination in employment because of race, creed, color, or national origin is widespread, and, second, that effective legislation is necessary to arrest the growth of the problem and to diminish its consequences to our entire citizenry. We should like, briefly, to document these two points.

A recent survey by the Bureau of Unemployment Compensation of the State of Ohio revealed that in the eight large cities of the State—namely, Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown—approximately 40 percent of the total job orders received by the State employment service were of a discriminatory nature, restricted against qualified individuals because of race, creed, color, or national origin. Out of 11,301 job orders received during the period of the study, 4,478 were restricted. Of the restricted orders more than half involved manufacturing occupations, while almost one-fourth came from wholesale and retail trades.

In the city of Cleveland a study conducted recently by the community relations board, a department of the city of Cleveland, revealed the following:

1. That the discrimination in employment in manufacturing affects at least (and at a minimum) 1 out of 4 job openings available on an over-all basis in Cleveland.

2. In certain occupational categories as retail sales, professions such as engineering, accounting, banking and journalism (and others) discrimination is virtually absolute to the point of exclusion. In certain trades, discrimination is practiced with the sanction of union locals. Many union locals, however, particularly stress a non-discriminatory policy.

3. The hiring of Negroes in most types of employment in manufacturing trades has declined markedly since the end of the war. In other words, factories have in many instances retained Negro workers employed during the war, but are hiring none or few, except in a menial capacity, at the present time.

4. Discrimination against persons of Jewish faith has increased in certain occupations, and it is the experience of most placement agencies that many more prospective employers must be contacted to obtain a job for a Jewish applicant than is the case for one that is non-Jewish.

The Ohio Committee for Fair Employment Practice Legislation firmly believes that sound Federal legislation is needed to help solve this vexing problem. We believe that there are compelling moral reasons for the passage of FEPC. Outstanding leaders of the three great religious faiths advocate this legislation because they hold sacred the principle of equal opportunity for all men. There are compelling economic reasons for this legislation. Business and labor are united in seeking greater productivity. Enabling the best qualified person to do the job regardless of his race, religion, or national origin will make for greater productivity and is good business. At the same time we must be concerned with what happens to the total economy if a significant portion of our population is restricted economically and put in straitened circumstances because of underemployment.

There are also compelling social reasons for FEPC. The price we pay for juvenile delinquency, slums, poor health is directly related to the ability of people to work gainfully at their highest skills. Finally, there are compelling national reasons for FEPC. Today, when the people of the world are judging between two ways of life, we must show that democracy is all that we have claimed for it. We cannot export democracy unless we are producing it at home.

Experience with State FEPC's has proved conclusively that this type of legislation is effective. Many additional States are following the example set by New York, New Jersey, Massachusetts, and Connecticut. But only a Federal law can assure workers of all States the same safeguards which those of a few States now enjoy. The same compelling reasons for State FEPC legislation apply to enactment of a Federal law, with the additional reasons related to interstate commerce.

With the conviction that FEPC is morally right, economically profitable, socially healthy, in our best national interests, and knowing that it works, the forward-looking citizens of the State of Ohio urge favorable congressional action on H. R. 4453.

STATEMENT OF THE COLORADO COMMITTEE FOR CIVIL-RIGHTS LEGISLATION

The Colorado Committee for Civil-Rights Legislation was organized in December 1948 to coordinate the campaign for a State fair-employment-practices act. Some 200 organizations and some 5,000 individuals, representing business, church, labor, and minority groups, subsequently joined the organization. A research report released by the Colorado committee which was conducted by trained research persons, documented discriminatory practices against Negroes, Spanish-Americans, and other minority groups in Colorado. We are attaching this report for your consideration.

The House and Senate of the State of Colorado unanimously endorsed the principle that job discrimination is a serious problem in Colorado, and that something should be done about it. The Senate and the House were unable, however, to agree on the approach to eliminate discrimination, and therefore no Colorado FEPC was passed. In the opinion of the members of the Colorado committee, this makes it more than ever imperative that the Congress of the United States pass a law to eliminate employment discrimination in interstate commerce in order to begin to solve this serious problem in Colorado and the Nation as a whole.

Therefore, the Colorado committee wishes to submit the following statement in support of H. R. 4453.

Equality of opportunity in employment is the most important civil right in a democracy, excepting only the right to vote. The economic status of an individual or group, determines the housing, health, and educational standards of that individual or group. The opportunity to exercise one's talents to the fullest capacity, is inherent in our American creed. In Colorado, we know that Negroes, Spanish-Americans, Japanese-Americans, and often Catholics, Jews, and other groups cannot be placed in many skilled and professional jobs regardless of their ability or training. Studies by the Mayor's Committee, Urban League, Colorado Committee for Civil Rights, Antidefamation League, and Denver Unity Council support this.

Results of these surveys indicate that in Colorado's larger cities, only 1 percent of our Negro population and 4 percent of our Spanish-American groups are hired in skilled, clerical, professional, and supervisory jobs; two-thirds of our Negro population and over half of our Spanish-American group work in unskilled, low-paying, so-called dirty jobs. Among persons willing and able to work, there is 150 percent more unemployment among Negroes than among whites, Negroes and Spanish-Americans are barred from certain skilled jobs no matter what the policy of the employers since some trade unions restrict their membership to white only. It is reliably estimated that nearly one-sixth of the working population in Colorado's larger cities is arbitrarily excluded from even a chance at skilled and professional jobs.

We know also, that according to a recent survey by the Denver opinion research center, some 60 percent of Colorado's citizens believe there should be a law under which no one could refuse to hire a man just because of his race, religion, or ancestry. Only 30 percent of the people oppose such a law.

In view of the tense world situation, it is imperative that the United States solve its problems of discrimination as quickly as possible. Each incident of discrimination by reason of race, religion, or ancestry is reported and highlighted not only in countries which are opposing United States policies, but also by our neighboring countries in South America. Every case of discrimination against a Spanish-American or Mexican-American in Colorado, is immediately reported in Mexico and other South American countries. Every year, millions of dollars must be used to repair our relations with Latin-America because of such incidents. This is just one example among many of the effect of employment discrimination upon our international policy.

The Colorado committee strongly endorses H. R. 4453, now pending before your committee. In our opinion, it has the elements which have made for successful operation of State laws in New York, New Jersey, Massachusetts, and Connecticut. At the same time, it starts with a reasonable program covering only businesses with 50 or more employees. The reliance placed by the bill on education, conciliation, and persuasion, is a must in any workable bill. However, any such conciliation and persuasion techniques are useless without the means of enforcement to back them up. We believe this law can be a major force in educating the public toward tolerance and understanding of all citizens.

In closing, may we ask your immediate and favorable action on this bill, and assure you of the wholehearted support of the individuals and organizations affiliated with the Colorado committee.

STATEMENT OF CHARLES H. TUTTLE, COUNSEL TO THE NEW YORK STATE TEMPORARY COMMISSION AGAINST DISCRIMINATION WHICH FRAMED THE PRESENT ANTI-DISCRIMINATION LAW OF THE STATE OF NEW YORK

This bill, H. R. 4453, is a departure in approach and concept from the former FEPC bills which, prior to 1948, annually appeared in Congress without success.

In grappling with the problem of discrimination in employment, this bill shifts the initial emphasis from naked police power to conference, conciliation, and persuasion.

It provides the means for rallying the local forces of good will within our communities to study the problem of specific instances of discrimination in employment and to foster, through community effort or otherwise, cooperation among all the elements of our population, and to aid in the development of remedial policies and procedures in general and in specific instances.

It provides for cooperation with regional, State, local, and other agencies.

It provides for studies of the subject by the commission and the making of such studies available to interested governmental and nongovernmental agencies.

It provides for furnishing to persons under the act such technical assistance as they may require or request for compliance with its policies.

It extends assistance to employers whose employees, or some of them, may refuse or threaten to refuse to cooperate with the policies of the act.

If all these preliminary approaches fail and a trial of a complaint becomes necessary, the bill provides fair procedure for a hearing before three members of the commission who were without participation in the earlier efforts at conference, conciliation, and persuasion.

The provisions for a trial before the commission and for judicial review of the results of such trial are carefully molded in accordance with the standard

provisions of the Administrative Procedure Act and the traditional concepts of fair play.

Subpoenas may be issued only by the commission or some member thereof.

The bill is modeled on the New York "law against discrimination" enacted on March 12, 1945, and commonly known as the Ives-Quinn law.

That law was passed by the legislature overwhelmingly, as a nonpartisan measure. It gave the State of New York primacy in the enactment of an integrated program against racial and religious discrimination.

In signing the bill the Governor described it as a reaffirmation by the people of New York of their faith "in the simple principles of our free Republic"; and said:

"It expresses the rule that must be fundamental in any free society—that no man shall be deprived of the chance to earn his bread by reason of the circumstances of his birth."

The leadership thus taken by the State of New York in this social advance has stimulated the enactment of similar laws in the States of Massachusetts, New Jersey, and Connecticut. Like legislation is pending in some other States.

The bill was framed by a commission appointed in the previous year by the legislature and the Governor. The commission had extended public hearings on the subject and on the commission's preliminary draft in all the principal cities of the State. The law as proposed by the commission was enacted without any change. It can truly be described as the work of the people of the State of New York themselves.

While the phrasing of the new law constituted legislative pioneering, the principles which it applied to the betterment of human relations were as old as American democracy and as basic as the Declaration of Independence and the Bill of Rights.

H. R. 4453 sets forth these same principles and gives them embodiment in the national field, subject to the constitutional restrictions applicable to Federal legislation.

Opposition to the enactment of this bill, like the opposition to the enactment of like legislation in New York, Massachusetts, New Jersey, and Connecticut is largely on the ground that the law may unsettle tranquility of business, promote harassing and blackmailing suits, and divide employees into racial groups.

Even if this fear were well founded, it would not follow that the racial and religious minorities must pay with penance, second-class citizenship and frustrated lives, the price of preventing such annoyances. But this legislation does not take such a pessimistic view of the American character or of democracy or of sound economics. Rather does it regard the business and industrial consequences as much better measured by the profound words of Mr. Eric A. Johnson, when president of the Chamber of Commerce of the United States, when he said publicly in January 1945:

"Wherever we erect barriers on the grounds of race or religion, or of occupational or professional status, we hamper the fullest expression of our economic society. Intolerance is destructive. Prejudice produces no wealth. Discrimination is a fool's economy. . . . The withholding of jobs and business opportunities from some people does not make more jobs and business opportunities for others. Such a policy merely tends to drag down the whole economic level. Perpetuating poverty for some merely guarantees stagnation for all."

It is also Mr. Eric Johnson who reminds us of another vital aspect of this matter of discrimination, by quoting Walt Whitman's famous lines: "This is not a nation, but a teaming of nations." It is this all-American team, its unity strengthened by its diversity, that has victoriously brought the Ship of Liberty through the most evil wind that ever swept the world.

In New York, not one of the evil consequences that were feared by opponents of the legislation has materialized. The new law has fitted easily and smoothly into the economic structure. It has been wisely administered, in a spirit of statesmanship and with a view to the progressive accomplishment of sound and constructive results.

The constitutional bases on which the pending bill rests are clear.

There is nothing new in Federal legislation eliminating racial and religious discrimination in employment relationships subject to Federal control. Since 1933 a score of different Federal statutes or appropriation acts have been adopted by the Congress forbidding racial or religious discrimination. Among these are the Selective Service Classification Act of 1940 (54 Stat. 1214), the Civilian Conservation Corps Act of 1937 (50 Stat. 320), the Lanham or Defense

Housing Appropriation Act of 1941 (55 Stat. 363), the Nurses Training Act of 1933 (47 Stat. 153), and various appropriation acts (e. g., for the National Youth Administration and the Federal Security Agency). These and other statutes embody, as the Supreme Court has held, "a national policy against racial discrimination" (*Hobbs v. Wilson*, 333 U. S. 18, decided February 2, 1948).

There can be no question of congressional power to regulate the employment practices of Federal agencies and to prescribe the terms on which the Federal Government may contract with private parties.

As to private employment practices, the power of Congress to regulate interstate and foreign commerce has been repeatedly used to regulate employment relationships affecting those fields; and such use has been repeatedly upheld by the courts. Such statutes as the National Labor Relations Act, the Railway Act, the Fair Labor Standards Act and others are illustrations. The Supreme Court of the United States has upheld the constitutionality of such legislation (*National Labor Relations Board v. Jones & Laughlin Steel Corp.*, 301 U. S. 1; *Texas & New Orleans Ry. v. Brotherhood*, 281 U. S. 548; *United States v. Darby*, 312 U. S. 100; *Kentucky Whip & Collar Co. v. Illinois Central Railroad Co.*, 200 U. S. 334; *New Negro Alliance v. Shiloh Grocery Co.*, 303 U. S. 552; *Railway Mail Association v. Corsi*, 326 U. S. 88; *Steele v. Louisville & N. R. Co.*, 323 U. S. 102; *Tunstall v. Brotherhood of Locomotive Firemen and Engineers*, 323 U. S. 210; *Morgan v. Virginia*, 328 U. S. 373; *West Coast Hotel Co. v. Parrish*, 300 U. S. 370, 391-392; *Phelps-Dodge Corp. v. NLRB*, 313 U. S. 177).

Furthermore, the treaty-making power constitutes a delegated power which is referred to in the bill and sustains its constitutionality.

Subdivision 2 of article VI of the Constitution of the United States declares that treaties lawfully made "shall be the supreme law of the land." The United Nations Charter constitutes such a treaty and article 55 thereof provides:

"With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect to the principle of equal rights and self-determination of peoples, the United Nations shall promote: * * * (c) Universal respect for, and observance, of human rights and fundamental freedoms of all without distinction as to race, sex, language, or religion."

This provision is given substance in article 56 which provides:

"All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in article 55."

Only Federal legislation can fulfill this pledge; and the fulfillment thereof is proposed in section 2 (c) (iii) of the present bill.

The Supreme Court of the United States has held that the delegation of power to make treaties implicitly carries with it the power to enact legislation for their fulfillment, even though without the treaty such legislation would not otherwise be within the powers delegated to Congress (*Missouri v. Holland*, 252 U. S. 416, 433; *Opama v. California*, 332 U. S. 633; 68 S. Ct. 200, 277, 288, decided January 19, 1948).

STATEMENT OF H. McALLISTER GRIFFITH, VICE PRESIDENT, ON BEHALF OF THE NATIONAL ECONOMIC COUNCIL, INC., NEW YORK, N. Y.

The National Economic Council is opposed to this bill, both in principle and in its historical setting, and is so opposed for the following reasons:

1. *This legislation is Communist in origin.*—While doubtless many sincere persons who abhor communism support this bill in good faith, the original inspiration of it is Communist, and it is a part of the Communist design to divide and weaken the American Republic.

In June 1935, the Workers' Library Publishers, a part of the Communist Party apparatus in the United States, published a pamphlet of 48 pages, entitled "The Negroes in a Soviet America." It purports to have been written by James W. Ford and James S. Allen. A photostatic reproduction of this pamphlet is attached hereto as part of the record of the case against this bill presented by the National Economic Council. A reading of this pamphlet will show clearly that FEPC-type legislation is a part of the Communist strategy to disrupt and disorganize the United States by causing friction between the colored and white races while pretending to be devoted to equalizing them.

Of a Soviet America the pamphlet says on page 87: "In the first place all hindrances, barriers, discriminations will be removed." On page 88, after de-

clarifying that in a Soviet America Negroes will fare even better than whites, it goes on: "Any act of discrimination or prejudice against a Negro will become a crime under the revolutionary law." This must be understood in conjunction with the two other revealing bits of Communist technique. On page 47 readers are told: "We must begin now—begin by organizing by preparing our forces in our daily struggles to improve our conditions, by learning 'to take over.'" On page 14: "We believe in using elections and our representatives in elected bodies to rally the people against capitalism. As long as capitalism permits the rights of citizenship, the working class should use these rights against the capitalists." When these words are considered together with the repeated endorsement of FEPC legislation in the platforms of the Communist Party, the design becomes crystal clear.

2. *This legislation is both wrong and harmful in principle.*—It is not liberal in the true meaning of the word, but profoundly reactionary in that it represents a long step toward the totalitarian state. If enacted its effect will not be to preserve the rights of minorities, but to destroy them. It will increase racial irritations rather than allay them.

All persons of intelligence and good will favor elimination of prejudices and bigotries which spring from ignorant hatred of others. That desire is not an issue. The issue is, how is such prejudice to be eliminated? Will enactment of this bill bring greater evils than those it hopes to cure?

Those who favor an objective, in this case the peaceful and harmonious relationships of citizens of different races or religions, but who oppose some particular means proposed to achieve the objective, cannot be justly charged with opposing the objective. If the means proposed are bad, the good objective may only be attained by rejecting them and finding some better means.

This legislation attempts to force that which in its nature is not susceptible to force. Unwilling compliance with a directive is one thing, but it will not lead to harmonious relationships. Understanding, tolerance, and warmth between person and person are natural, gradual growths. The substitution of force for the patient processes of time and history, while always attractive to those who hope to remake the world in a hurry, will be fatal. There are two kinds of contracts between persons. One is that kind of living together in which understanding is the fruit of mutual, unforced good will. The other is the contact of persons at variance with each other. Love cannot be enjoined by laws or courts, particularly when the injunction is accompanied by a penalty for disobedience. Legislation that permits such attempts to force good will will create new points of friction rather than eliminate those which now exist.

The true method of achieving understanding and tolerance mutually between diverse groups is not the continual emphasis of differences, but rather emphasis upon values which exist in common and interests which belong to both.

FEPC legislation is a threat to the freedom of religion so precious a portion of our American heritage. The purpose of the exercise of religion and the existence of churches is the building up of character. In exercising one's religion, and as an integral element in that exercise, one possesses an inalienable right, guaranteed by fundamental law but existing prior to and independent of any legislative enactment, to:

First, include any man's religion in an estimate of his character. This applies to both prospective employer and prospective employee.

Second, entrust matters of confidence and trust to a person of one's own religion if one believes that the practice of such religion actually builds up character and thus fits him to be a better employee or associate.

Since these rights are inalienable, and the proposed legislation is in conflict with them, the bill if enacted would be contrary to constitutional provisions as well as the natural law, which is the law of God. Consequently, no person who wishes to maintain his religious liberty will consider himself bound by such legislation. It is an attempt to dictate to the mind of the individual a course of thought and action which Government has no right to dictate.

It is also an inalienable right possessed by every freeman, to be able to choose his own associates and companions for reasons which seem cogent to him, although they may seem not sufficient or frivolous to others. Once such associations are not made freely but at the command of Government, the society which permits such interference with individual liberty becomes a prison, and ceases to be a free society. Without freedom of choice in association, there is no real freedom at all.

The bill is further destructive of liberty in that it destroys the free market for goods and services upon which our economic system as well as our social and political liberties depend for their exercise.

In a free market for services, both employer and employee are free to bargain and need not agree unless mutually satisfied.

Government may make conditions of work involving health and safety. But it may not invade the freedom of decision of citizens in their bargaining as to employment. This bill, by bringing Government as a third party into the market, as a party which can say, "You must employ," destroys the free market for services. The only alternative to the free market, and the alternative toward which this legislation obviously tends, is a market in which Government exercises the controlling voice, not alone as to the compliance of an employer, but as to the compliance of the employee as well. Thus labor, instead of remaining as one of two free bargaining units, becomes a pool at the disposition and under the control of Government.

Nothing more destructive of the true rights and freedom of labor could possibly be devised. Bargaining units of workers, such as labor unions, which depend upon the free labor market and the competitive system for their very existence should be the last to submit to a Government labor monopoly. Political freedom cannot long remain when the free market goes. This legislation destroys the free market.

In any exchange, free choice departs when either party is no longer the owner of that he seeks to exchange. In the case of the market for services, the employer must be able to hold out the unconditional offer of employment and the applicant must be able to offer his services without reference to any other consent, and their free agreement is an exercise of their respective control over that which belongs to each.

FEPO legislation, however, assumes that any applicant, by the fact of applying, is invested with some kind of interest in that particular job, an interest enforceable at law. This is destructive of the free market entirely. It makes Government an interested party and, since the State must protect the rights of its citizen, Government must then become the final arbiter of all hiring.

If they once concede this right to Government, both employer and employee are bound by it and its inexorable consequences. The power that can say "you must hire," can also say "you must not hire." It may further say, since it is now an interested party and sole arbiter, "you must apply," and "you must not apply."

Minorities which seek to gain social benefits by placing their destiny in the hands of Government—which is controlled by the majority—sign their own ultimate death warrants. For, having yielded up a part of their liberties to Government on condition that it confer upon them certain advantages derived by abridging the liberties of others, it loses the moral right to object when any subsequent majority takes any action it pleases concerning the minority. Minorities are protected from majorities only by the self-restraint of majorities. If those self-restraints are not founded upon inalienable principles respected by the majority as an act of morality, they will soon cease to exist.

If, therefore, Government assumes control of the pool of labor, that control must be extended to management as well, and the social and political freedoms enjoyed by all, both minority and majority, will cease to have moral meaning and sanction.

Finally, this proposed legislation attempts to accomplish something which is psychologically, factually, and morally impossible. The State itself assumes powers akin to those of Deity when, meeting by commission or court, it purports to enter into the mind of an employer and declare (against his denial) what went on within his own mind and what was the chief element in his choice in deciding not to hire an applicant for work. Since what really goes on within the employer's mind is known certainly only to himself and God, such legislation takes any man subjected to its provisions out of the rule of law and puts him at the mercy of any commission or court which imagines that it has the ability to declare what went on in an employer's mind during the act of bargaining.

Judicial decisions, or decisions of other bodies, based upon such findings, can be nothing other than arbitrary and capricious determinations based upon sheer guesswork or imagination. This is the end of government of laws and is distinctly only government by men.

This legislation should be not enacted because it destroys the very freedom which it professes to enhance. Any restraint whatsoever which impedes the choice either of employer or employee in bargaining is destructive of basic freedom. This bill as an open door into the vestibule of the totalitarian state prison.

STATEMENT BY JAMES McLEISH, GENERAL VICE PRESIDENT AND CHAIRMAN OF FAIR EMPLOYMENT PRACTICES COMMITTEE, UNITED ELECTRICAL, RADIO, AND MACHINE WORKERS OF AMERICA, CIO, IN SUPPORT OF FAIR EMPLOYMENT PRACTICES BILL (H. R. 4453) ON BEHALF OF 600,000 MEN AND WOMEN OF UE

The United Electrical, Radio and Machine Workers of America, CIO, presents this statement to the Labor Committee of the House of Representatives in the hope that our experience in the electric and machine industry, and the program and policy of our union will help give our elected representatives assistance in their determination to act on the proposed fair employment practices bill.

UE FIGHT AGAINST DISCRIMINATION

UE has always fought against discrimination and for the right of all groups to work and live in security as American citizens. Our record in the fight against discrimination extends over the full 13 years of our history as an organization.

UE has rejected discrimination because of the realization that only by uniting all workers in the industry "regardless of skill, age, sex, nationality, color, religion, or political belief or affiliation" was it possible to defend effectively the interests and improve working conditions of our members. This is a basic part of our union's foundation as set forth in the preamble to our constitution. And we have striven to carry out this principle in our conventions, our council meetings, in our shops, and in the community.

The UE has sought to incorporate this first principle of no discrimination into our collective-bargaining contracts. UE minimum contract requirements which have been unanimously adopted by our national conventions and incorporated by UE into 761 contracts covering 210,000 workers states that "every contract should provide that there be no discrimination by the employer against employees on account of * * * sex, race, color, creed, or national origin."

We have set up a national UE fair employment practices committee and each district organization of UE has set up a district committee to insure that our constitutional provisions and convention resolutions be carried out.

UE has fought side by side with community organizations to break down job barriers. Where official State FEPC committees were in existence we utilized their services.

We have conducted educational campaigns among our members not only on the necessity of working side by side with any American regardless of race, color, creed, or political belief, but also for the right of any American for training, upgrading and promotion within the plant.

We have needed to mobilize all our forces and to enlist Government and community aid wherever it was available to make even a dent in the discriminatory practices of employers in the electrical and machine industry.

For example, the Westinghouse Electric Corp. in 1945 and 1946 was going to western Pennsylvania and West Virginia to hire hundreds of white girls for its Trenton, N. J., plant, and would not even accept applications from the sizeable number of unemployed Negro girls in the community. The UE local and a community organization the "Trenton Committee on Unity" brought this to the attention of the company and charges were filed with the State FEPC. The plant management accepted applications but still did not hire Negroes and continued pressure was needed to the hiring of Negro girls. But then the foreman began to harass them with a view to driving them out of the plant and only after the filing of grievances and other union protests were the girls finally protected on their jobs.

The United States Cartridge Co. in 1942 was combing the South for thousands of white workers to meet war-production demands despite the fact that thousands of unemployed Negroes were available in St. Louis. It took the joint efforts of the St. Louis UE, the NAACP, and the War Manpower Commission backed by large demonstrations to get the company to hire Negro workers.

The General Electric Co. would not take on Negro men in its Trenton plant in 1948, in spite of the fact that the company was hiring. It was necessary for the UE to bring in the State FEPC to get the company to hire a single Negro man. No sooner was he in the plant than the company began to criticize his ability in order to get rid of him. The UE district No. 4 fair employment practices committee and the local executive board protested the company's actions, filed a grievance and forced the company to keep this one lone Negro man in the plant.

Prior to the beginning of our campaign before World War II to end job discrimination in our industry, Negroes, Jews, and other national and religious groups were almost completely excluded from the electrical and machine industry which now embraces some 600,000 workers. As a result of our own efforts, the manpower requirements of the war and the work of President Roosevelt's Fair Employment Practices Committee we have been able to achieve some meager successes.

COMPANY DISCRIMINATION

But we still find that the major companies with which we bargain are guilty of both open and subtle forms of discrimination against minority groups. Few Negroes are employed in our industry. When they are employed they are placed in the lowest labor grades and in the most undesirable, dirty, and hazardous jobs. They are not to be found in the apprentice training systems and it is, therefore, not surprising to find almost no Negroes in the skilled crafts. In salaried, engineering, and supervisory groups, Negroes are almost nonexistent.

This discrimination is all the more dangerous when practiced by companies whose spokesmen pretend to be liberal and who employ a token number of Negroes as a cloak to conceal actual discrimination in their plants.

GENERAL ELECTRIC CO.

Charles E. Wilson, president of the General Electric Co., served as Chairman of the President's Civil Rights Committee which recommended, "the enactment of a Federal fair-employment-practices act prohibiting all forms of discrimination in private employment, based on race, color, creed, or national origin."

Mr. Wilson has since received citations and awards for his public statements on civil rights. But Mr. Wilson's employment policies in his General Electric plants is proof of the need for an FEPC law. Mr. Wilson is a symbol of liberal-sounding talk which attempts to cover up wholesale discrimination through the disguise of "token" hiring of Negro people.

Mr. Wilson's General Electric Co. has consistently fought against any real no-discrimination clause in GE collective-bargaining contracts. Here is the record: In the 1943 collective-bargaining negotiations, the UE proposed the following clause: "The provisions of this contract shall be applied to all employees without discrimination on account of race, color, creed, or national origin." The General Electric Co. rejected this clause.

Again, in April 1946, UE submitted the same proposal to the company at the beginning of negotiations. Mr. Spicer, giving the company views on the various issues, to our union, wrote in part as follows: "The company has taken the position that this matter is covered by law and that a union contract should not of necessity contain items covered by law."

In February 1947, the UE again included the same proposal in the demands on the company and for the third straight time the company rejected the proposal.

In 1948, following the report of the President's Committee on Civil Rights, with Mr. Wilson of General Electric as chairman, UE again proposed the same clause. Mr. Pfeif in a memorandum to our union, wrote in part as follows: "The company stated its willingness to add a paragraph on the question of discrimination providing this paragraph can be so worded that the company and the union will not be involved in grievances relating to transfers and upgrading." This time the company let the cat out of the bag; they did not want to give the UE a lever to really press for upgrading of minority workers.

The refusal of the company to include a no-discrimination clause in the contract reflects the attitude of the company towards minority groups.

The UE made a survey of 11 representative General Electric plants covering a total of 61,697 workers.¹ Of this total only 2 1/4 percent or 1,502 workers were

In the company's main plant in Schenectady, home office of the top policy-

making officers, approximately 800 Negroes are employed out of a total of 28,000 employees. Where the company employed a substantial number of Negroes, as in the Elmira foundry, it was because other workers could not be found to perform the heavy, hot, dirty, and hazardous work involved.

Where Negroes were employed by the company, it was almost invariably in the lowest labor grades as laborers, porters, and matrons. Those on production work were usually on the least skilled jobs.

¹ Plants surveyed were: Bloomfield, N. J.; Bellevue and Bucyrus, Ohio; Erie, Pa.; Fort Wayne, Inc.; Elmira, N. Y.; Newark, N. J.; Philadelphia, Pa.; Schenectady and Syracuse, N. Y.; Tiffin, Ohio, and Trenton, N. J.

Negroes are almost totally excluded from the skilled crafts, salaried groups, and the sales and supervisory force.

We were able to find only two or three Negroes in the entire apprentice training program of the company.

The GE Company has made much of their hiring a few Negroes from Howard University as engineers, but this gesture plus all of the public-relations announcements Mr. Wilson makes on discrimination will not hide the basic fact that the GE Company is itself guilty of rank discrimination against Negro workers.

WESTINGHOUSE ELECTRIC CORP.

The Westinghouse Electric Corp., another of the giants in the electrical manufacturing industry, does not even talk about civil rights and here, too, rank discrimination exists. As in the case of GE, Westinghouse has repeatedly rejected no-discrimination clauses in collective bargaining. A survey of some 12 Westinghouse plants covering a total of 46,250 workers revealed only 2,488 Negroes, or 5 percent of the total employment.²

In the East Pittsburgh home plant of the Westinghouse Corp. there are only 620 Negroes out of a total of 15,500 employees.

Negroes in Westinghouse are mainly foundry workers, elevator operators, janitors, truckers, and laborers, with a small group on production work mostly in the lower labor grades. Westinghouse has also attempted to keep Negroes where they are employed on night shift work.

Westinghouse practically excludes Negroes from better job categories, such as skilled crafts, white collar, sales and supervisory. We could not locate one single Negro in apprentice training in any Westinghouse plant.

Don. G. Mitchell, president of the Sylvania Electric Products, Inc., recently accepted the chairmanship of the Greater New York Committee of the United Negro College Fund's campaign. Mr. Mitchell will undoubtedly get much publicity from his activities in the Negro college fund campaign, but the record of his private business shows that Negroes will have a slim chance of putting their education to work in his plants.

We have surveyed six Sylvania plants covering 1,905 workers and could find only seven Negroes and these in the lowest labor grades. In Altoona, there are 600 Negro families in the community but not one Negro is employed in the Sylvania plant despite a turn-over of over 100 percent in employment.

FEPD ESSENTIAL

Where are the powerful corporations and their lobbies in the hearings on FEPC? Are they afraid that an FEPC law would expose their discriminatory practices and force them to hire minority groups? These corporations spent millions of dollars in newspaper and radio publicity and hired hundreds of lobbyists to influence Congress to maintain Taft-Hartley. The top corporation officers of the country testified. One of their main slogans was 'Taft-Hartley gives workers the right to work. But not a murmur of support is heard from the NAM or Chamber of Commerce on the fair employment practices bill which would make the right to work a reality for millions of minority groups against whom their member corporations discriminate daily in their hiring practices and in their upgrading and promotion policies.

A Federal Fair Employment Practices Act is essential to overcome these hard and fast employer discrimination policies. State FEPC laws while helpful have been too weak to meet the problem of coping with the giant corporations whose plants are located in many States and who wield economic and political power transcending that of the States.

Our union has striven to eliminate discrimination in the industry, and has utilized State FEPC committees and community organizations whenever available. Our union has achieved some successes but we need the assistance of a Federal FEPC to tackle the problem effectively.

Labor unions down through the years organized many thousands of workers under the most difficult conditions, but workers did not fully enjoy the benefits of collective bargaining until the Wagner Act which guaranteed them the right to organize and which set up an effective Nation-wide apparatus to protect workers in this right.

² Jersey City, Trenton, Bloomfield, and Newark, N. J.; East Pittsburgh, Sumbury, Derry, Sharon, and Lester, Pa.; Bridgeport, Conn.; Mansfield, Ohio; and Fairmont, W. Va.

The FEPC bill declares discrimination unlawful, provides for the filing of unfair employment practice charges, and sets up a committee with the authority to investigate these charges and issue orders enforceable in court discontinuing the discriminatory practices, thus paralleling the procedures of the Wagner Act. It should prove to be as effective in discouraging discrimination as was the Wagner Act in encouraging organization.

FEPC AND THE NATIONAL WELFARE

The whole country was shocked when Senator Lucas, Democratic floor leader and chairman of the Democratic policy committee, revealed on May 24 that President Truman and his congressional leaders had decided to not act on vital civil-rights legislation.

President Truman campaigned on this issue. The civil-rights plank was an essential part of the Democratic national program in the 1948 elections.

This decision can only be considered a betrayal of solemn promises to make such legislation a first order of business.

The Republican Party is tarred with the same brush. It, too, pledged itself to civil-rights legislation. But its leaders refused to kill the filibuster aimed at civil-rights legislation in the Senate.

It is becoming quite obvious that Democratic and Republican leaders are yielding to the powerful vested interests on this issue.

What are the consequences to the Nation?

Millions of American citizens—Negroes, Jews, Catholics, and other minority groups—are being denied the rights which are part and parcel of the American tradition of equality for all and which are written into the American Constitution.

Millions of Americans in minority groups are denied the right to a job by employers. Employers will use these unemployed as a means of pulling down the living standards of all Americans and as potential strikebreakers.

Millions of Americans in minority groups can find only low-paying, dirty, hazardous jobs. They will be used by employers to worsen all wages and working conditions.

Millions of Americans will therefore be especially subject to poverty, sickness, and disease. The living standards of all Americans will suffer so long as we perpetuate a system of class B citizenship to divide the Nation.

H. R. 4453 will greatly advance the fight against such un-American practices of discrimination.

STATEMENT OF J. D. HENDERSON, NATIONAL MANAGING DIRECTOR, AMERICAN ASSOCIATION OF SMALL BUSINESS IN OPPOSITION TO H. R. 4453

My name is Joseph D. Henderson. I am national managing director of the American Association of Small Business, with national headquarters at 602 Carondelet Building, New Orleans 12, La. This is an organization composed of firms, partnerships, corporations, professional men and women and individuals doing business in their own or in trade names, which corporations, partnerships, professional men and women and individuals are engaged in small business.

Our membership extends from New York to California and from the Great Lakes to the Gulf. A ballot presented to our members reflects a vote of 85 percent against the enactment of fair employment practice acts. That people cannot be legislated into obedience was demonstrated by the failure and final repeal of the eighteenth amendment. We are of the opinion that those fostering fair employment practice acts are a tiny frustrated minority trying to regiment the great majority of business people in our Nation.

Our particular attention is centered on question and answer No. 5 in statement prepared by your committee and entitled "Elimination of Discrimination in Employment." Question: "What principal minority groups are protected by the bill?" Answer: "Thirteen million Negroes, 5,000,000 Jews, 20,000,000 Catholics, 3,000,000 American of Mexican and Hispanic origin, 11,000,000 person of foreign birth." No mention is made of Indians, Chinese, Japanese, Episcopalians who call themselves Catholic, Seventh Day Adventists, Mormons, and others. It is supposed that your reference to 20,000,000 Catholics is intended to include the communicants of the Roman Catholic Church. We do not believe that the Roman Catholic Church feels it is being discriminated against, because ever

since the days of Lord Baltimore Roman Catholics have lived and worked and enjoyed the freedom of our Nation.

The Federal Fair Employment Practice Act provides for the creation of a permanent Commission. It must be admitted that a permanent salaried Commission of seven appointed by the President with the advice and consent of the Senate as provided in section 6 of H. R. 4453 means the establishment of another bureau to be staffed by bureaucrats in numbers depending upon the amount of money Congress appropriates for the purpose of maintaining the Commission, at the expense of the taxpayers.

Section 11 and section 14 of H. R. 4453 opens an avenue of fine and imprisonment for those who do not agree with the mandates handed down by the Commission and its representatives.

The Commission may also petition Federal courts. This brings to our mind the unpleasant word "injunction." We visualize tying up businesses for days to enable the slow wheels of justice enmeshed in the bogs of bureaucracy to grind out the complaining requirements of some individual who does not really want to work now and in all probability would much prefer to remain forever on the unemployment rolls.

The bill which is being considered today proposes to prohibit discrimination in employment because of race, color, religion, or national origin. We find, however, that H. R. 4453, while intended to legislate against prejudices provides for discrimination.

It is brought out that evidently those persons who employ 50 or less people cannot discriminate. It may interest the gentlemen of this committee to know that over 98 percent of all of the firms in the United States employ 50 or less people and they are engaged in interstate as well as intrastate commerce. In our opinion if sections 3 and 5 are properly interpreted, H. R. 4453 will affect so few people that it will not, and we believe it cannot, bring about the results desired by those interested in seeing it enacted into law by the Congress.

To further substantiate our contention, we present as exhibit A an editorial from the New Orleans States, dated May 10, 1949, which we quote herewith:

"FEPC PARADOX"

"Up in Illinois when the legislature was mulling over a proposed State fair-employment-practices commission a selen proposed amendments which would broaden the bill to include small employers and religious organizations as well as large industrial employers and which would bar workers from quitting jobs because of dislike for fellow workers' race or religion. The amendments were killed by the pro-FEPC forces. If legislating against prejudices is proper in the first place—and it isn't—why, paradoxically, discriminate between discriminations?"

In summing up, we believe that because the record indicates that less than 7,000 complaints of unfair employment have been recorded since July 1943; that only 4 States have passed such laws; that the United States Constitution forbids discrimination; that there are already 23 laws which forbid discrimination, and that there are only a few employers who cannot be relied upon for voluntary cooperation, it would be well to continue an educational program on the part of those interested in seeing Federal Fair Employment Practices Acts enacted in the same enthusiastic manner in which they are now going about tearing down our substantial government structure which time has so slowly but surely built up.

The United States of America has been known as the melting pot of the races throughout the years of our existence. Shall we at this late date enact a law which will make it possible to intimidate, regulate, regiment, and force people to do the things a majority of them want to do in order to live peaceably together and also work together. That we cannot enforce legislation which tends to compel people of different races, complexions, and religions to work together if they do not choose to do so, must be readily admitted. Even the birds of the air, the beasts of the field, the bugs and the worms in the ground choose to associate and work with their own kind. Flowers and all vegetation grow and multiply in profusion when planted separately. Therefore, H. R. 4453 is not a natural law, and, as a representative of the American Association of Small Business, I request your committee not to arrive at a favorable report, because I do not believe the House of Representatives will approve a Federal Fair Employment Practices Act when presented for a vote.

INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION,
San Francisco 2, Calif., May 25, 1949.

HON. ADAM C. POWELL, Jr.,
Committee on Education and Labor,
United States House of Representatives,
Washington, D. C.

DEAR CONGRESSMAN POWELL: On behalf of the International Longshoremen's and Warehousemen's Union, CIO, I wish to register our support for your bill, H. R. 4453, establishing a permanent Fair Employment Practices Commission to wipe out job discrimination for workers of all races, religions, and national origin.

In our opinion the time is long overdue for the passage of such legislation. Growing unemployment in the maritime industry makes FEPC imperative. If the present session is ended without action on FEPC, an inexcusable betrayal will have been committed. Promises have been made on all sides. They must be redeemed.

We urge that your subcommittee of the House Labor Committee approve H. R. 4453 without delay, and push for passage of the legislation in Congress before adjournment.

We are enclosing our convention resolution on FEPC, approved overwhelmingly in San Francisco in April of this year. We should like this letter and the resolution made part of the printed record of your subcommittee's current hearings.

HARRY BAIRD, *President.*

RESOLUTION NO. 20, ADOPTED BY EIGHTH BIENNIAL CONVENTION, ILWU,
 APRIL 4-10, 1949

Whereas the ILWU has played an honorable part in labor struggle against discrimination in employment, and

Whereas discrimination is a threat to our American way of life, tending to lower wages by allowing employers to play one minority group off against another, and denying large sections of the population the opportunity of making their normal contribution to society, and

Whereas with unemployment and lay-offs mounting, job opportunities for minority groups will become even more limited and racial tension will accordingly increase, and

Whereas effective FEPC legislation has proven successful in several States and cities for a number of years; now, therefore, be it

Resolved, That this ILWU convention does hereby go on record in support of National and State FEPC legislation, and calls upon President Truman and the Eighty-first Congress for immediate passage of such legislation to end job discrimination on the basis of race, religion, or place of national origin.

NATIONAL UNION OF MARINE COOKS AND STEWARDES,
San Francisco 11, Calif., May 25, 1949.

HON. ADAM C. POWELL, Jr.,
Committee on Education and Labor,
United States House of Representatives,
Washington 25, D. C.

DEAR CONGRESSMAN POWELL: The National Union of Marine Cooks and Stewards, CIO, wishes to urge that your subcommittee approve H. R. 4453, your bill to establish a Fair Employment Practices Commission, and push for its passage through Congress without delay.

This union has had a long and proud record of fighting discrimination in the hiring of workers. Our members are merchant seamen in the stewards department. They are men and women of diverse national origin, North American, Puerto Rican, Hawaiian, Filipinos, Negroes, Chinese, and Japanese. We have done what we could through our hiring halls to insure equal rights to all jobs for all men, regardless of race, color, or national origin. We permit no discrimination of any kind. But the maritime industry is greater than our union, and practices of job discrimination are widespread. Growing unemployment in the industry poses an even greater threat to workers who are members of national minorities. Only Federal legislation will make it possible to wipe out Jim Crow.

In our opinion the time is long overdue for the passage of FEPC legislation. If the present session of Congress is ended without action, an inexcusable betrayal will have been committed. Promises have been made freely on all sides. They must be redeemed.

We should like this letter made part of the printed record of your subcommittee's current hearings as an expression of our support for your bill.

Very truly yours,

HUGH BRYSON, *President.*

STATEMENT OF HARRY M. LEE, LEGISLATIVE CHAIRMAN, GOVERNMENT WORKERS UNION, CIO, ON H. R. 4453

Government Workers Union, CIO, is an organization of Federal, State, and municipal employees with local unions throughout the country. We endorse the objectives and the specific provisions of H. R. 4453. The bill establishes the principle that there shall be no discrimination on account of race, color, religion, or national origin in employment subject (with minor exceptions) to the jurisdiction of Congress. Existing discrimination on this account is notorious, well established and vicious. In a democracy, one of the principal functions of government is to insure equal opportunity for all persons. The color of a person's skin, his religious beliefs, or the group within which he happened to be born are all irrelevant to this principle, and discrimination based on such extraneous factors is in direct conflict with the American creed.

In putting into practice our inherent belief in democracy, our Government both in its National and State branches has in the past given wide protection to those unable to protect themselves. For example, State legislation establishing safe working conditions, workmen's compensation, and limits on the hours and types of work which women and children are permitted to engage in and Federal legislation in the wages and hours field are all precedents for legislation to achieve this goal.

More than the humanitarian and democratic principles upon which this legislation is based, a Fair Employment Practices Act is required by the economic and political needs of our country. Our failure to live up to our own beliefs in the field of racial, religious, and color discrimination frequently embarrasses us in our dealings with other nations. To tolerate discrimination is to place ourselves in company with those totalitarians of both the right and the left who disregard the dignity of the individual in the name of some "greater" good. By denying our own principles through tolerating discrimination, we provide ammunition for those very groups who would destroy the democracy we have thus far achieved. In addition, in our personal dealings with representatives of foreign countries discriminatory practices embarrass us because those representatives themselves are frequent victims of the discrimination.

Basically, the question of discrimination on account of race, color, religion, or national origin rests on an economic foundation. The economic interests of those who benefit by the discrimination are the principal reasons for its continuance, regardless of the way in which such interest is covered over by a crust of emotional prejudice. This country cannot afford to continue the economic waste involved in discrimination. Our facilities are stretched to the utmost by our efforts to aid in the reconstruction of war-crippled countries. At the same time, the economic needs and goals of our own population in reaching higher living standards are making unprecedented demands on our resources. We can no longer tolerate the loss of manpower, the loss of ability, and potential contributions to our welfare which the victims of discrimination might otherwise make, and the cost of maintaining separate facilities and the pattern of segregation resulting from discrimination. This fact makes it imperative that Federal action be taken to end discrimination. The problem cannot be left to the drawn-out and all too often futile processes of State legislation.

Moreover, because the problem of discrimination is basically economic, its solution cannot be left to the gradualist approach involved in education or exhortation. For one thing, there is not time, democracy today is on trial, and we shall need our full resources in the contest. For another, where powerful interests conflict with ideals, education alone will not subdue selfishness. Education is no answer to a monopolist, because monopoly is better for him individually than competition. It is, therefore, necessary to have antitrust laws. So also

with the economic beneficiaries of discrimination. Regardless of how often it is shown that discrimination is economically wasteful for the country as a whole, is inhuman toward the individuals involved, and is contrary to democratic principles, the economic interests of these beneficiaries will insure that discrimination be maintained. Consequently, education alone will not suffice. Still a third reason for the necessity of a law, as opposed to reliance on education, pleading, and other long-range measures, is that once the barriers of race or religious prejudice are broken down, association between the various groups leads to a friendliness and understanding which creates a more fertile ground for education. In fact, reliance solely on education and progress generally to eliminate discrimination leads to a vicious circle. Discrimination denies its victims the education and other advantages which would place them on a level with other groups; because they lack these advantages they cannot obtain good jobs and decent living conditions, which in turn are necessary to secure education and other advantages. To this extent, discrimination is self-perpetuating and the chain must be broken at some point. H. R. 4453 accomplishes this.

The approach of the bill emphasizes conciliation and elimination of discrimination by consent. This is highly desirable, since the complete elimination of discrimination ultimately depends on public repudiation of it. However, in the event voluntary efforts fail, strong enforcement provisions are needed. This the bill also provides.

Section 10 of H. R. 4453 extends to Federal employment the antidiscrimination principle of the bill. The President has already established administrative channels for the correction of discrimination in Federal employment. Thus far no positive action has been taken pursuant to the President's direction, and the policy generally has been to await complaints. As a result, progress in Federal employment has been very slow and discrimination flourishes in large areas of it. For example, in the District of Columbia government, not covered by the President's fair-employment order, very few Negroes are employed in any but the most menial jobs. Out of 170 employees in the Assessor's Office, there are 5 Negro messengers and 1 CAF-3 Negro clerk. In 120 of the Office of the Auditor, there is 1 Negro messenger and 1 clerk in charge of the property yards. In the Unemployment Compensation Bureau, out of 103 employees there are 20 Negro clerks, 1 Negro messenger, and 1 Negro laborer. In the Highway Department out of 640 employees there are 163 Negroes mostly guards and laborers, with 1 messenger, 1 mimeograph operator, 2 foremen of road gangs, and several mechanics. On such boards as the Zoning Commission and the Real Estate Commission, in which Negroes clearly have a substantial and important interest, there are no Negroes. On this account, Government Workers Union urges that this provision of the bill be amended by adding enforcement provisions to it similar to those contained in the sections of the bill dealing with private employment.

On the whole, H. R. 4453 represents an understanding and effective method of curtailing discrimination. Government Workers Union strongly urges that it be reported favorably.

WOMEN'S TRADE UNION LEAGUE OF THE DISTRICT OF COLUMBIA,
Washington, D. C., May 28, 1949.

Hon. ADAM C. POWELL, Jr.,

*Chairman of Subcommittee, Committee on Education and Labor,
House Office Building, Washington 25, D. C.*

DEAR CONGRESSMAN POWELL: The Women's Trade Union League of the District of Columbia supports, unqualifiedly, H. R. 4453, a bill to "prohibit discrimination in employment because of race, color, religion, or national origin."

Our league has always maintained there should be no discrimination in employment because of color or race and that each person should have equal opportunity for work for which he qualifies.

The wartime fair-employment-practice law proved that job opportunity can be more nearly equalized by legislation. The several State laws which have since been enacted are further proof of the need and effectiveness of such legislation.

We urge your committee to give favorable action on H. R. 4453. We ask that this letter be included in the record of the hearings.

Sincerely yours,

Mrs. MARY MASON JONES,
President.

MAY 27, 1949.

HON. ADAM C. POWELL, JR.,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN POWELL: The officers of the Associated Retail Bakers of America have instructed me to convey to you the following resolution which was adopted by the national convention in Milwaukee this week:

"Resolved, That we register our strong objection to so-called FEPC proposals such as that provided in the bill H. R. 4453 because, while the apparent objectives are sound and good, the problem of discrimination with which it deals is one that cannot be met and would only be aggravated by an attempt to solve it by passing a law."

A copy of this communication is being sent to the clerk of the Committee on Education and Labor, and it will be much appreciated if you will include this in the record of your hearings.

Respectfully,

WILLIAM A. QUINLAN,
General Counsel.

AMALGAMATED CLOTHING WORKERS OF AMERICA,
New York 3, N. Y., May 17, 1949.

HON. ADAM CLAYTON POWELL, JR.,
Chairman, Subcommittee of the House Committee on Education and Labor,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN POWELL: The Amalgamated Clothing Workers of America urges the House Committee on Education and Labor to report favorably H. R. 4453, a fair employment practices bill that will do two things:

1. Declare discrimination in employment because of race, color, creed, or national origin to be against national policy and in violation of Federal law.

2. Establish a permanent Fair Employment Practices Commission fully empowered and equipped to enforce observance of fair employment practices in all matters relating to hire or tenure of employment or any term or condition of employment.

We urge the passage of such legislation at the earliest possible moment for the following reasons:

1. Racial or religious discrimination in employment is offensive to the basic concepts upon which our democracy is established. Those who practice it rob citizens of their right to free access to employment opportunities and should be restrained by law.

2. Such discrimination depresses the wages of minority groups, creates a competition for jobs based on falling living standards, impairs the buying power of the wage-earning public, and opens the door to economic collapse and social bitterness.

3. Wherever fair employment practices have been encouraged by governmental agencies and by law, marked improvement in the economic and social well-being of the community has been the result.

4. Experience has shown that the vast majority accept fair employment practices willingly and without resistance if they are protected by law from unfair competition of those few who seek to profit from unfair practices.

5. Such legislation and its effective enforcement will add to the prestige of American democracy among the people of other lands.

Sincerely yours,

HYMAN BLUMENRO,
Executive Vice President.

STATEMENT OF HARRY T. STEWART, VICE PRESIDENT, ON BEHALF OF LOCAL NO. 251,
NATIONAL FEDERATION OF POST OFFICE CLERKS

Mr. Chairman and members, my name is Harry T. Stewart. I am vice president of Local 251 of the National Federation of Post Office Clerks, Brooklyn, N. Y., representing more than 2,000 post office clerks.

I am very grateful for this opportunity of submitting a statement in behalf of my organization in support of the proposed fair employment practice legislation, particularly H. R. 4453, on which hearings have been in progress.

We feel proud of the fact that we live in a democracy. We feel that it is the aim and purpose of our lawmakers to eliminate any undercast practice, that

If permitted to continue would gnaw away at our democratic foundations and put us in a light before the world of preaching one thing while practicing another. We contend that discrimination in employment is an undemocratic policy that carries all of the evils of sowing disunity in our Nation.

The United States is often referred to as the land of opportunity. Should land of opportunity be limited when applied to minority groups?

We spent in World War II billions of dollars and thousands of lives. This tremendous expenditure in men and money was to stop a man and nation bent on forcing a doctrine of racial supremacy on others. Our inspiration for sacrifice was always the thought that we were fighting to make the world safe for democracy.

Today we are spending over \$3,000,000,000, over \$100 for every man, woman, and child, to protect the rights of every man, woman, and child of minority groups in certain other nations. Negroes, Jews, and Catholics contribute in taxes to these funds. Can we, with principle or honesty or without appearing in a very peculiar light continue to send this kind of money to Europe or anywhere else to protect the rights of citizens of other nations while we permit a denial of the same rights to a large number of our own?

We have had and now have certain organizations such as the Ku Klux Klan and the band that are constituted to and are outspoken in their effort to prevent Negroes, Jews, and Catholics from enjoying privileges that should be the right of every citizen. For our Government to permit any discrimination in employment opportunities to be practiced in any manner is in effect to aid and give comfort to these subversive organizations in putting these minority groups in a separate category. This aids and perpetuates the policy of slugging out Negroes, Jews, and Catholics as groups to be treated differently and perpetuates a minority problem.

In all fairness and honesty it seems that there should not exist a question of whether fair-employment-practice legislation should be enacted. The question should be how to make this type of legislation effective. The aims of the FEPC should be the aim of every democratic American, to eliminate the undemocratic principle of persons being selected for employment because of race, creed, or color. For us to argue that we must find the perfect piece of legislation before enacting any would be like saying we must find the perfect piece of legislation against murder, before enacting laws to stop it, while murder continues unpunished. If we want democracy, any legislation to practice it cannot be cast aside on any grounds whatsoever.

We herewith submit illustrations of what can happen to a minority group as a result of discrimination in employment.

The New York Times of December 1, 1939, carried an article headed "Slave Markets in Bronx Decried." This presents the story of Negro women standing on street corners offering their services to the highest bidder, which was usually a ridiculous amount. (I herewith submit a copy of that article.)

I wish to call attention to a headline on page 3 of the World Telegram of Tuesday, April 27, 1937, calling attention to Jersey's "Tobacco Road." This presented a shantytown of Negroes, living in virtual penance, in poverty, destitute, and hopeless. Can people living in such hopeless squalor expect to educate their children or prevent them from becoming sickly and juvenile delinquents? (I herewith submit article.)

In the Herald Tribune of Monday, May 16, 1941, our late President Roosevelt is quoted as serving notice on both labor and management that they must eliminate employment discriminations against Negro and other minority groups, indicating his belief that discrimination in employment had to be done away with.

These illustrations represent a blight on America.

In face of the fact that we have many instances where large numbers of Negroes, Jews, and Catholics work harmoniously together, there is every reason to believe that a fair employment practice policy could in a reasonably short time become an accepted policy followed without friction.

The largest employer in our Nation, the United States Post Office Department, which has all racial groups working together in practically every large city in our country, serves as an outstanding illustration of how easily we can adjust ourselves to a "no discrimination" policy.

Continued discrimination against some 50,000,000 Americans, which takes in about 13,000,000 Negroes, 23,000,000 Catholics, and 5,000,000 Jews, cannot but do great damage to our Nation.

The members of my organization will be pleased to have favorable action on the Fair Employment Practice Act.

(The articles referred to above are as follows:)

[From the New York Times, December 1, 1939]

"SLAVE MARKETS" IN BRONX DEcriED—CITIZENS' GROUP ACTS To STOP Hiring OF NEGRO DOMESTICS ON STREET CORNERS

The practice of hiring for housework Negro women who congregate on street corners in the Bronx, known as "domestic slave markets," was severely condemned yesterday by the Bronx Citizens' Committee for the Improvement of Domestic Employees, meeting at the Bronx Union YMCA, 470 East One Hundred and Sixty-first Street.

To end this economic demoralization it was decided that special committees should be organized to study the following three proposals for eliminating the situation:

That Bronx housewives should be "educated" that this system of employing domestics is economically unsound both to themselves and their employers.

That discussions be held with the State employment department with a view to improving the plight of these unemployed women.

That centers or special agencies be established in the sections where they congregate in order to shelter them in severe weather and also see that prospective employers pay them fair wages.

The committee includes clergymen, community workers, doctors and representatives of labor and civic organizations.

Those at the meeting yesterday included Wilbur D. Simmons, assistant district superintendent in the Bronx of the division of placement and unemployment; Rabbi Jerome Rosenbloom of Tremont Temple, who represented the Bronx Council of Rabbis; the Reverend Elder G. Hawkins representing the Bronx Clergy Association and the Reverend H. Norman Sibley of the University Heights Presbyterian Church.

[From the New York World-Telegram, April 27, 1937]

COMMUNITY OF 1,000 LIVES IN STATE OF VIRTUAL DEGRADE—MYSTERY SHROUDS ORIGIN OF SICK AND DESTITUTE GROUP EXISTING WITHOUT HOPE IN RAMAPO HILLS—PASTOR INSTIGATES STATE INQUIRY

(By Elliott Arnold, World-Telegram Staff Writer)

Forget everything you've ever heard about the plight of the share croppers of the South, and go today for a quick visit among the Jackson Whites, who constitute an economic and ethnological horror in New Jersey's Ramapo Mountains—less than an hour from Broadway.

It won't be a pretty picture you'll see, among these poverty-degraded mountain people. Intermarried, ignorant, sick with the sickness that comes from endless cold and hunger, they live in stivistic gloom just over the pretty hills from the fashionable estates around Eskdale Lakes, N. J.

Less than an hour's drive over the wide, modern highways of New Jersey, they live.

They've lived there since Revolutionary days. They trace their lineage for 150 years and more. And they've never been in New York. One in ten has a radio—the old battery sets because there's no electricity. One in fifty has been to a motion picture. None has ever owned a new dress or suit or pair of shoes.

CONDITION EXPOSED

The condition of these more than 1,000 persons who have occasionally appeared in the news without themselves knowing it—they never read newspapers—was brought to light through the efforts of the Reverend A. F. Chilson, of Hoboken. After months of complaining, the Reverend Mr. Chilson finally has persuaded William J. Ellis, commissioner, of the State department of institutions and agencies, to assign an agent to investigate. The investigator has a job on his hands.

No one knows where the term "Jackson Whites" originated. The people who are known by that name are the descendants of the Negroes, Indians, and Dutch, and English who settled and interbred in the early 1700's. Later Hessians, Italians, and the French joined them.

Mostly the Jackson Whites are mulattos. There are large groups of albinos. A coal-black brother will have a sister with skin and hair a fish-belly white. Some of the faces are of definite Mongolian, with the slant eyes and bland expression of the Chinese. Some look like Indians.

COMPANY OWNS HOMES

These racial differences respect no individual family. An average family comprises between 8 and 14 children. Each child may look as though he belonged to a different race.

The Jackson Whites live in identical dirty-brown shingle houses, all of which are owned by the Ringwood Co. The company operates considerable real estate near the Erskine Lakes—nice, fashionable real estate.

Each desolate house has a wood-burning stove. In cold weather the family seldom moves from within range of the stove. That means spreading blankets and straw on the floors. Kerosene lamps give the light. A five-room house, in which from 10 to 18 persons will live, rents for \$7 a month. None has a toilet inside the house.

Formerly all the Jackson Whites worked in one way or another for the Ringwood Co., which up until 6 years ago operated an iron mine. The Jackson Whites, of course, did the menial work. The mine was closed in 1931.

SELDOM GET CASH

Some of the people still work for the company. They do land grading, occasional labor on property improvement, smithy work in the stables, machine labor in the shops. ~~They do not get paid in cash. They get paid in credits in the company general store here, which is owned by the company.~~ Incidentally, company officials of the store said that there was no such person as Jackson White.

At the end of the month, the amount of money earned is placed against the amount of merchandise taken. Theoretically, all money above the merchandise, is turned over to the worker. This writer questioned at least 15 different family heads. None had ever received more than \$1 or \$2 at the end of the period. Mostly, they said, they were in debt. Generally in deep debt that seems never to get itself paid.

The prices in the company store are higher than those in the next nearest store, a chain store 8 miles away. Butter in the chain store costs 29 cents a pound. In the company store 36 cents. Brown eggs, 29 in the chain; 35 in the company. On the average the prices are about 15 percent higher.

However, there are no busses or other means of transportation so the residents have to buy at the company store. Of course, those who work for the company and get paid in credits, couldn't buy elsewhere if they had the transportation. Those who don't work for the company, work for the WPA, and they lacking transportation facilities, buy in the company stores, too.

The Jackson Whites have no doctor of their own. They have a doctor or two on call. He charges between \$5 and \$8 a visit if he has to call, between \$2 and \$4 a visit if the patient calls on him. The Jackson Whites can't afford to be sick. None of the persons to whom this writer spoke had been visited by a doctor in his or her life.

A contagious disease will spread rapidly. Diseases appear like plagues in the community. One time it will be some skin disease. Another time some bronchial ailment. They are all subject to virtually every sickness in medical books; their bodies wasted from childhood malnutrition, offer little resistance. Most have pitted or scarred faces.

THEIR BODIES TWISTED

The results of accumulated starvation have twisted their bodies. Men of 25 and 30 will speak and reason like children. They will talk in bright, chattering voices. Life is terrible with them, they agree, but what can be done? They look at you and giggle suddenly. For no reason.

No doctor or nurse attends these people at childbirth. Someone knows a midwife, or someone's sister or mother is handy. That is all. The midwives, incidentally, are unlicensed.

The people for the most part are devout. They have church meetings in each others' homes. They are Episcopalians. Some, however, hold secret converse

with "conjure men." All the old crones know of an herb which has miraculous powers.

They speak a curious mountain English. They have no Negro intonations. They consider themselves Negroes. They talk of themselves as having a white grandmother, or a white aunt, but no matter how much white blood they possess, or say they possess, they regard themselves as Negroes.

They have strange names, most of them old Dutch, for some reason, dual names, with "vans." There are some who have old English names. They beg you not to use their names. They are afraid of the company, they tell you. They do not want the company to know they are talking about their way of living. For three generations they have worked and lived for the company and they have a born dread of it.

They ask you to have dinner with them. One is especially proud. Tonight she is having some pork. For the last three or four nights it was just beans.

After the evening meal they usually go to each other's homes. One, for instance, has a phonograph. That is more satisfactory than the radio, because the ancient radios here do not work properly. The phonograph owner has a half-dozen records. Two are jazz. One is a Negro spiritual. Three are opera records, one cracked. These will be played over and over again. The listeners will squat on the floors and nod their heads to the music's rhythm. On a cold night they will all collect their coal and wood and take it to the home they are going to visit. Thus, the fuel is pooled and made to last longer.

QUIT SCHOOL EARLY

The company maintains a school. The Jackson Whites are proud of that school. The children can't stay in it very long. They have to get out and work the boys on farms, maybe; the girls with the ever-present new child.

The children play with marbles or jump rope. Same as other children. A group looks like an international hodgepodge.

They obtain their clothes through the Reverend Mr. Chilson, who has done missionary work among them for several years. He collects dresses and suits and shoes from other families in other parts of New Jersey. Then they are given to one Jackson White woman, who regularly holds "sale day." The clothing is bought by those who have the money. A coat with a cheap fur collar will sell for 60 cents. A pair of shoes goes for a quarter. The money is turned back to the neediest of these people. Of course, there isn't much.

One of the children was asked to pose for a picture nibbling on a piece of bread. There was no bread in the house. The writer asked other neighbors present to get a piece of bread. None of the fifteen odd persons who were there at that time had any bread in the house. Not even the woman with the pork chops.

Finally someone produced an apple. She started to wolf it. It was some time before she could be persuaded to stop eating long enough to sit still for a picture.

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